

Chapter 2

ADMINISTRATION

Generally

2.005 Office Hours of City Offices. The hours of business for all city offices shall be established by the city manager.

(Section 2.005 amended by Ordinance 20100, enacted December 1, 1997, effective December 31, 1997.)

2.007 City Council - Meetings.

- (1) Regular meetings of the city council shall be held on the dates and at the times established by the council groundrules.
- (2) The mayor may, or at the request of three councilors, shall, call a special meeting of the council.
- (3) The council groundrules shall provide for the manner of public notice to be given of the time and place for holding meetings of the council and of the boards, committees, commissions and subcommittees of the city, which shall be in compliance with the Oregon public meeting law.
- (4) The council shall hold at least one public hearing prior to taking final action on any ordinance, except where a hearing has been held under Section 7.187, of the Eugene Code, 1971.
- (5) Prior to invoking the forfeiture provision of section 23 of the Eugene Charter of 2002, the council shall cause written notice of its intent to act to be served upon the affected councilor.
- (6) The council shall adopt council groundrules that include, but are not limited to:
 - (a) Rules of procedure governing the conduct of all meetings of the council or of any committee appointed by it as set forth in Robert's Rules of Order Revised and the quasi-judicial procedures of this code.
 - (b) The dates and times of its meetings.
 - (c) The content and order of agendas.
 - (d) Requirements for public hearings other than those specified in the Eugene Charter of 2002, this code or state law.
- (7) The council groundrules shall provide for the taking of written minutes of all its meetings in accordance with the public meeting law.
- (8) No council meeting shall be held at any place where discrimination on the basis of race, creed, color, sex, age or national origin is practiced. However, the fact that organizations with restricted membership hold meetings at the place shall not restrict its use by the council if use of the place by a restricted membership organization is not the primary purpose of the place or its predominate use. Meetings do not include

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any on-site inspection of any project or program, or the attendance of councilors at any national, regional or state association to which the city or the councilors belong.

- (9) Meetings of city boards, committees, commissions or subcommittees shall be governed by the foregoing provisions.

(Section 2.007 added by Ordinance No. 18001, enacted June 13, 1977; amended by Ordinance No. 18240, enacted July 26, 1978; Ordinance No. 18414, enacted May 30, 1979; Ordinance No. 18493, enacted September 5, 1979; Ordinance No. 18904, enacted December 16, 1981; Ordinance No. 18911, enacted January 20, 1982; Ordinance No. 19354, enacted September 18, 1985; Ordinance No. 20100, enacted December 1, 1997, effective December 31, 1997; Ordinance No. 20109, enacted March 9, 1998; Ordinance No. 20156, enacted June 14, 1999, effective July 15, 1999; and Ordinance No. 20301, enacted November 10, 2003, effective December 10, 2003.)

2.009 City Council - Election of Officers.

- (1) The council president shall be elected for a one-year term. That person who has served the longest on the council and has not previously acted as council president shall normally be entitled to election as the president. A councilor may be re-elected as president of the council only after the expiration of one year from the date the councilor last served as such president unless two-thirds of the total membership of the council votes otherwise. A councilor will not be eligible to be elected president who has not served as a councilor for at least two years.
- (2) The vice-president of the council shall be elected at the same time and in the same manner as the president of the council. A vice-president may be nominated and elected as president.
- (3) The candidates for president and vice-president of the council shall be nominated and elected by a majority vote at the first regular meeting of the council in each calendar year.

(Section 2.009 added by Ordinance No. 18001, enacted June 13, 1977; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

2.011 City Council - Appointment of Municipal Judge.

- (1) The presiding municipal judge shall be appointed in the manner provided in this section.
- (a) Prior to appointing the presiding municipal judge, the council shall cause contract(s) for the position to be prepared and advertised, and solicit applications for the position. The council shall review the applications, and by majority vote determine which of the applicants shall be referred to a screening committee nominated by the mayor and appointed by the council for interview. The screening committee shall be composed of one person from each of the following: the University of Oregon law school faculty; the

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Lane County public defender's office; the Lane County district attorney's office; the city's department of public safety; the city's human rights commission; the roster of local state or federal judges; and the city's municipal court staff. At the time of referral, the council shall indicate to the screening committee the number of finalists to be referred for consideration by the council. The screening committee shall interview the applicants and refer the finalists to the council. The council shall select the presiding municipal judge from among those finalists.

- (b) Notwithstanding the provisions of subparagraph (a), the council may re-appoint the incumbent presiding municipal court judge without first undertaking any of the actions specified in subparagraph (a).
- (2) The performance of the presiding municipal judge shall be evaluated:
 - (a) Through an informal self-evaluation submitted to the council annually;
 - (b) Through an informal evaluation submitted to the council every two years; and
 - (c) Through a formal evaluation, conducted every four years by an evaluation committee.

The informal evaluation shall consist of a completed self-evaluation form, together with evaluation forms completed by representatives of the department of public safety, the city prosecutor's office, and the public defender's office. The formal evaluation process shall include a public hearing. Members of the evaluation committee shall be nominated by the mayor and appointed by the council. The committee shall be composed of not less than five persons, including at least one member of the human rights commission, two attorneys familiar with the municipal court, and two other persons generally familiar with the judicial system. The evaluation report shall be submitted to and accepted by the council. The salary of the presiding municipal judge shall be reviewed as part of the city's budget process, and a written recommendation of the proposed rate shall be submitted to the council.

(Section 2.011 added by Ordinance No. 18001, enacted June 13, 1977; amended by Ordinance No. 18904, enacted December 16, 1981; Ordinance No. 18928, enacted February 17, 1982; Ordinance No. 18940, enacted March 10, 1982; Ordinance No. 19936, enacted October 25, 1993; Ordinance No. 20051, enacted June 10, 1996, effective July 10, 1996; Ordinance No. 20100, enacted December 1, 1997, effective December 31, 1997; and Ordinance No. 20138, enacted December 7, 1998, effective January 6, 1999.)

2.013 City Council - Boards, Commissions and Committees.

- (1) Except for boards, commissions or committees established pursuant to ordinance, state statute, or intergovernmental agreement, the following are the presently constituted boards, commissions and committees of the city with the number of members and names of the appointive authority indicated thereafter, together with the term and the authority for such board, commission or committee:

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Budget Committee

No. of Members:	8 Citizens 8 Councilors
Appointment Process:	Council appoints
Term:	3 years
Authority:	EC 2.013, ORS 294.336

Civilian Review Board

No. of Members:	5 or 7 Members
Appointment Process:	Council appoints
Term:	3 years, except for initial members, which shall be: If 5 members: 2 years for 3 initial members and 3 years for 2 initial members If 7 members: 2 years for 4 initial members and 3 years for 3 initial members
Authority:	EC 2.240

Eugene Water and Electric Board

No. of Members:	5
Appointment Process:	Elected
Term:	4 years
Authority:	EC 2.175, EC 2.968

Human Rights Commission

No. of Members:	10 Community members 1 Councilor or the Mayor
Appointment Process:	Commission reviews applications and makes recommendations to Council; Council appoints
Term:	3 years
Authority:	EC 2.260

Planning Commission

No. of Members:	7
Appointment Process:	Council appoints
Term:	4 years
Authority:	EC 2.330, ORS 227.030

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Planning Commission - Standing Committee

Historic Review Board

No. of Members:	1 Planning Commissioner 6 Citizens
Appointment Process:	Mayor and Planning Commission Chair nominate, Council appoints
Term:	Planning Commissioner during his or her term or as determined by Planning Commission Chair
Authority:	4 years citizen members EC 2.355

Police Commission

No. of Members:	2 city councilors 1 member from the human rights commission 1 member from the civilian review board 8 citizens
Appointment Process:	Mayor nominates, council appoints
Term:	City councilors, human rights commission member, civilian review board member, during their respective terms. 4 years - citizen members
Authority:	EC 2.368

Sustainability Commission

No. of Members	12 Citizens 1 Councilor
Appointment Process	1 Citizen appointed by each Councilor 4 Citizens appointed by full Council 1 Councilor appointed by Mayor
Term	4 years citizen members Councilor during term of office
Authority	EC 2.013 and EC 2.380

- (2) In addition to the boards and commissions in subsection (1) above:
- (a) The council may create council standing or ad hoc committees to advise the council on the creation of policy and develop recommendations for council direction or action; and,

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- (b) The city manager or designee may create standing or ad hoc departmental advisory committees to make recommendations to city staff and departments concerning the implementation of city policy.

At the time an ad hoc or standing committee is created, the committee's charge or task shall be specified. At the time an ad hoc committee is created, the council or city manager also shall specify a specific date for completion of the work, and the committee shall cease to exist upon completion. Standing committees shall continue in effect until dissolved by the council (for council created committees) or the city manager (for department advisory committees).

- (3) The mayor shall nominate, and the council shall appoint the members of any committee established by the council unless a different procedure is specified at the time the committee is established. The city manager or designee shall appoint the members of department advisory ad hoc committees, unless a different procedure is specified at the time the committee is established. The number of members of each committee will be as established at the time it is created.
- (4) As the need arises to fill any vacancy, or from time to time as the council directs, the city shall conduct a well planned publicity campaign making use of media, community centers, neighborhood associations, and other civic interest groups to create an awareness among the public of the opportunities for citizen participation in local government. All releases shall be designed so as to make known the number and nature of board, commission and committee vacancies, any existing criteria for selection, the timing and methods of appointments and selection procedures, and an explanatory statement regarding the limitations on opportunities to serve.
- (5) At such times as may be appropriate throughout the year, the city manager shall cause to be distributed and collected, citizen interest forms on which interested citizens may indicate their interest in participating in local government areas of special interest to them. The forms shall be prepared by the city manager and approved by the council, and shall be so designed as to be applicable to both existing positions and such new positions as may be created from time to time, including positions on ad hoc committees, and shall contain space for such information as the applicant's appropriate civic and neighborhood experience, applicable skills, appointments of particular interest to them, and the times(s) which they will be available to serve. In addition, the forms shall contain a space for the applicant's consent to the sharing of the completed form with other interested units of local government.
- (6) All appointments to the boards, commissions and committees of the city shall be made as indicated in subsections (1) and (2) above, or as designated by the ordinance or state law creating the board, commission or committee. In nominating or making appointments, the council, mayor, or city manager or designee shall take into

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consideration information provided by the citizen interest form, and shall nominate or appoint only those persons who at the time of appointment, reside within the city's urban growth boundary. If during their term a member ceases to reside or work, if applicable, within the city's urban growth boundary, the position shall be vacated, effective as of the date a qualified resident from within the city's urban growth boundary willing to serve is appointed to fill the position. The council may waive the residency requirement if the council deems it to be in the best interest of the committee purpose and function. In addition to any other provisions in this code for declaring a position vacant, the council may remove a member from a board, commission or committee and declare the position vacant if a member is absent without leave of the chair from three consecutive meetings of the board, commission or committee of which he or she is a member.

- (7)** Any and all boards, commissions and committees appointed pursuant to state law or ordinance of the city shall exercise the functions and perform the responsibilities therein contained. Any ad hoc committee created by the council or department advisory ad hoc committee created by the city manager or designee shall perform the duties prescribed at the time the committee is created. All committees shall have a chairperson to be appointed by the council, or city manager or designee, or in the absence of such appointment a chairperson and secretary shall be elected by vote of a majority of the committee at its first meeting. Committee membership may include members of the council and interested citizens, or both.
- (8)** The membership of an ad hoc committee appointed for a specific purpose shall end at the time the final report of the committee is made to the council or city manager or designee.
- (9)** Unless otherwise provided in the ordinance, resolution, state law or other action creating the board, commission or committee, the terms of all members on boards, commissions and committees other than ad hoc or department advisory committees shall expire on June 30 of the year the member's term has been designated to expire. If no qualified successor has been appointed as of that date, a member's term shall continue until the member's successor is appointed and qualified.
- (10)** Vacancies on boards, commissions and committees, including ad hoc and department advisory committees, shall be filled in the same manner as original appointments, unless those procedures are in conflict with the ordinance, resolution or state law creating the same.
- (11)** Pursuant to the requirements and provisions of section 294.336 of Oregon Revised Statutes, a budget committee shall consist of all members of the council and a like number of qualified electors of the city, who shall be appointed by the council for terms of three years. The term of an appointive member shall expire as provided in subsection (9) of this section, and, upon council approval, an appointive member may be reappointed once to such position upon expiration of the term for which originally appointed. Vacancies in the appointive

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membership of the budget committee shall be filled in the same manner as original appointments.

(Section 2.013 added by Ordinance No. 18001, enacted June 13, 1977, and amended by Ordinance No. 18178, enacted May 3, 1978; Ordinance No. 18421, enacted June 20, 1979; Ordinance No. 18610, enacted April 3, 1980; Ordinance No. 18797, enacted May 20, 1981; Ordinance No. 18813, enacted June 10, 1981; Ordinance No. 18822, enacted June 24, 1981; Ordinance No. 18903, enacted December 16, 1981; Ordinance No. 18910, enacted January 20, 1982; Ordinance No. 18969, enacted May 24, 1982; Ordinance No. 18970, enacted May 24, 1982; Ordinance No. 18988, enacted June 9, 1982; Ordinance No. 18997, enacted July 14, 1982; Ordinance No. 19086, enacted January 12, 1983; Ordinance No. 19197, enacted November 16, 1983, effective January 1, 1984; Ordinance No. 19208, enacted December 14, 1983; Ordinance No. 19212, enacted January 14, 1984; Ordinance No. 19239, enacted April 11, 1984; Ordinance No. 19241, enacted April 18, 1984; Ordinance No. 19250, enacted May 30, 1984; Ordinance No. 19285, enacted October 8, 1984, effective October 8, 1984 and January 1, 1985; Ordinance Nos. 19294 and 19298, enacted November 19, 1984; Ordinance No. 19314, enacted February 13, 1985; Ordinance No. 19338, enacted June 26, 1985, effective July 26, 1985; Ordinance No. 19366, enacted November 20, 1985; Ordinance No. 19375, enacted January 29, 1986; Ordinance No. 19404, enacted September 17, 1986; Ordinance No. 19405, enacted September 17, 1986; Ordinance 19451, enacted March 9, 1987; Ordinance No. 19476 enacted May 20, 1987; Ordinance No. 19481, enacted June 10, 1987; Ordinance No. 19524, enacted December 9, 1987; Ordinance No. 19525, enacted December 9, 1987; Ordinance No. 19526, enacted December 9, 1987; Ordinance No. 19525, enacted January 6, 1988; Ordinance No. 19536, enacted February 22, 1988; Ordinance No. 19573, enacted August 8, 1988, effective September 7, 1988; Ordinance No. 19579, enacted October 10, 1988; Ordinance No. 19603, enacted February 13, 1989; Ordinance No. 19628, enacted July 26, 1989; Ordinance No. 19636, enacted September 25, 1989; Ordinance No. 19714, enacted August 8, 1990, effective September 7, 1990; Ordinance No. 19732, November 5, 1990; Ordinance No. 19736, enacted November 14, 1990; Ordinance No. 19729, enacted October 29, 1990, effective November 28, 1990; Ordinance No. 19793, enacted August 5, 1991; and Ordinance No. 19814, enacted December 2, 1991; Ordinance No. 19926, enacted June 28, 1993; Ordinance No. 19941, enacted November 22, 1993, effective December 22, 1993; Ordinance No. 19997, enacted December 5, 1994, effective January 4, 1995; Ordinance No. 20037, enacted February 12, 1996, effective March 13, 1996; Ordinance No. 20136, enacted December 7, 1998, effective January 6, 1999; Ordinance No. 20148, enacted March 8, 1999, effective April 7, 1999; Ordinance No. 20202, enacted August 7, 2000, effective September 7, 2000; Ordinance No. 20264, enacted November 12, 2002, effective December 12, 2002; Ordinance No. 20309, enacted February 11, 2004, effective March 12, 2004; Ordinance No. 20374, enacted December 13, 2006, effective January 12, 2007; Ordinance No. 20379, enacted February 26, 2007, effective April 4, 2007; Ordinance No. 20398, enacted October 24, 2007, effective November 23, 2007; clerically corrected May 1, 2008; amended by Ordinance No. 20410, enacted June 9, 2008, effective July 11, 2008; amended by Ordinance No. 20436, enacted September 28, 2009, effective July 1, 2010; Ordinance No. 20481, enacted November 28, 2011, effective December 30, 2011; and administratively corrected on March 28, 2012.)

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2.015 City Council - Conduct at Meetings.

- (1)** The presiding officer of the council shall be responsible for insuring that order and decorum are maintained during all meetings of the council, and shall be responsible for assigning to the sergeant at arms the duties and station.
- (2)** A member or members of the Eugene Police Department, designated by the chief of police, shall act as sergeant at arms and shall be present as directed by the mayor or council at each council meeting. The sergeant at arms shall have the responsibility to maintain order, to enforce the rules of conduct, and to enforce orders given by the presiding officer.
- (3)** Any of the following shall be sufficient cause for the sergeant at arms to, at the direction of the presiding officer, remove any person from the council chambers, or meeting hall, for the duration of the meeting:
 - (a)** The use of unreasonably loud or disruptive language.
 - (b)** The making of loud or disruptive noise.
 - (c)** The engaging in violent or distracting action.
 - (d)** The willful injury of furnishings or of the interior of the council chambers or meeting hall.
 - (e)** The refusal to obey any of the rules of conduct provided within this section, including the limitations on occupancy and seating capacity.
 - (f)** The refusal to obey an order of the presiding officer or an order issued by any councilor which has been approved by a majority of the councilors present.
- (4)** Before the sergeant at arms is directed to remove any person from the meeting hall for conduct described in subsection (3) that person shall be given a warning by the presiding officer to cease the conduct.
- (5)** If a meeting is disrupted by members of the audience, the presiding officer or a majority of the councilors present may order that the council chambers or other meeting hall be cleared.
- (6)** Unreasonably loud or disruptive language, noise, or conduct is that which obstructs the work or the conducting of the business of the council.
- (7)** Time for testimony by members of the audience at public hearings of any council meeting at which the public is invited or allowed to address the council, may be limited or extended for each speaker and for each subject by the presiding officer or by majority vote of the council. All questions and discussion by members of the audience shall be directed to the presiding officer. Direct discussion between members of the audience and councilors or city employees is permitted only at the discretion of the presiding officer. Every person desiring to speak shall first address the presiding officer, and upon recognition, shall give his or her name and address and shall confine comments to the issue under consideration.
- (8)** The taking of photographs in the council chambers or other meeting hall shall be allowed except when done in violation of subsections (3), (4)

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and (5) of this section.

- (9) The following constitute the seating capacity and requirements to be observed:
- (a) The safe occupancy and seating capacity of the council chambers as determined by the fire marshal shall be posted within the council chambers. The limitations on occupancy and seating capacity so determined and posted shall be complied with at all times.
 - (b) Aisles shall be kept clear at all times. Members of the audience shall abide by the seating plan in the chambers, and shall not pass beyond the restraining barriers unless requested to do so by the presiding officer.
 - (c) Members of the press may sit in the area designated in the seating plan posted in the council chambers and must be able to present press identification to be allowed such seating.
- (10) No flags, posters, placards, or signs, unless authorized by the presiding officer, may be carried or placed within the council chambers, any meeting hall in which the council is officially meeting, or any meeting hall in which a public hearing is being held. This restriction shall not apply to armbands, emblems, badges, or other articles worn on personal clothing of individuals, provided that such devices are of such a size and nature as not to interfere with the vision or hearing of other persons at the meeting, and providing that such devices do not extend from the body in a manner likely to cause injury to another.
- (11) The provisions of this section shall not be construed or prevent news media representatives from performing their duties so long as the manner of performance is not unreasonably disruptive of the meeting.

(Section 2.015 added by Ordinance No. 18001, enacted June 13, 1977; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

2.017 City Manager - Acceptance of Real Property Acquisitions. In addition to the city manager's authority under the Eugene Charter of 2002 to accept the transfer of title to or interest in real property on behalf of the city when that transfer is contemplated by adopted budgets, plans or policies of the city, the city manager or designee is authorized to accept real property upon a determination that acceptance of the property interest is in the public interest and acceptance does not create an ongoing financial obligation to the city.

(Section 2.017 added by Ordinance No. 20178, enacted November 8, 1999, effective December 8, 1999; and amended by Ordinance No. 20301, enacted November 10, 2003, effective December 10, 2003.)

2.018 City Manager - Authority to Impose Administrative Civil Penalty.

- (1) When the city manager or designee determines that a responsible person has violated or is violating any provision of a chapter of this code that contains a provision authorizing the imposition of an administrative civil penalty, the city manager or designee may impose an administrative civil penalty as provided in subsections (2) to (11) of

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this section. For purposes of this section, a responsible person shall mean a responsible person as defined by the specific code provision authorizing the imposition of the administrative civil penalty.

- (2) Prior to imposing an administrative civil penalty under this section the city manager or designee shall pursue reasonable attempts to secure voluntary correction, failing which the city manager or designee may issue an order to one or more of the responsible persons to correct the violation. Except where the city manager determines that the violation poses an immediate threat to health, safety, environment or public welfare, the time for correction shall be not less than five calendar days.
- (3) Following the date or time by which the correction must be completed as required by an order to correct a violation, the city manager or designee shall determine whether such correction has been completed. If the required correction has not been completed by the date or time specified in the order, the city manager or designee may issue a notice of civil violation to each person to whom an order to correct was issued.
- (4) Notwithstanding subsection (2) above, the city manager or designee may issue a notice of civil violation without having issued an order to correct violation or made attempts to secure voluntary correction where the city manager or designee determines that the violation was knowing or intentional, or a repeat of a similar violation, or for any violation of sections 6.446, 6.501 to 6.596 or 6.625 to 6.645 of this code or any rules issued thereunder.
- (5) Utilizing the procedure set forth in section 2.019 of this code, the city manager shall adopt by rule either a schedule of, or specific criteria to be used in, establishing penalty amounts that may be imposed for particular violations. Except for violation of sections 6.501 to 6.596 of this code or any rules issued thereunder no administrative civil penalty imposed under this section shall exceed \$2,000 per day. For violation of sections 6.501 to 6.596 of this code or any rules issued thereunder, no administrative civil penalty imposed under this section shall exceed \$25,000 per day. In imposing a penalty authorized by this section, the city manager or designee shall consider:
 - (a) The person's past history in taking all feasible steps or procedures necessary or appropriate to correct the violation;
 - (b) Any prior violations of statutes, rules, orders and permits;
 - (c) The gravity and magnitude of the violation;
 - (d) Whether the violation was repeated or continuous;
 - (e) Whether the cause of the violation was an unavoidable accident, negligence or an intentional act;
 - (f) The violator's cooperativeness and efforts to correct the violation; and
 - (g) Any relevant rule of the city manager.
- (6) The notice of civil penalty shall either be served by personal service or shall be sent by registered or certified mail and by first class mail. Any such notice served by mail shall be deemed received for purposes of any time computations hereunder three days after the date mailed if to

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an address within this state, and seven days after the date mailed if to an address outside this state. A notice of civil penalty shall include:

- (a) Reference to the particular code provision or rule involved;
 - (b) A short and plain statement of the matters asserted or charged;
 - (c) A statement of the amount of the penalty or penalties imposed;
 - (d) The date on which the order to correct was issued and time by which correction was to be made, or, if the penalty is imposed pursuant to subsection (4) a short and plain statement of the basis for concluding that the violation was knowing, intentional, or repeated or a statement that the violation concerned sections 6.446, 6.501 to 6.596 or 6.625 to 6.645 of this code or rules issued thereunder; and
 - (e) A statement of the party's right to appeal the civil penalty to a hearings officer.
- (7) Any person who is issued a notice of civil penalty may appeal the penalty to a hearings officer. The provisions of section 2.021 of this code shall govern any requested hearing, except that the burden of proof shall be on the city manager or designee.
- (8) A civil penalty imposed hereunder shall become final upon expiration of the time for filing an appeal, unless the responsible person appeals the penalty to a hearings officer pursuant to, and within the time limits established by, section 2.021. If the responsible person appeals the civil penalty to a hearings officer, the penalty shall become final, if at all, upon issuance of the hearing officer's decision affirming the imposition of the administrative civil penalty.
- (9) Failure to pay a penalty imposed hereunder within ten days after the penalty becomes final as provided in subsection (8) shall constitute a violation of this code. Each day the penalty is not paid shall constitute a separate violation. The city manager or designee also is authorized to collect the penalty by any administrative or judicial action or proceeding authorized by subsection (11) below, other provisions of this code, or state statutes.
- (10) The civil administrative penalty authorized by this section shall be in addition to:
- (a) assessments or fees for any costs incurred by the city in remediation, cleanup or abatement, and
 - (b) any other actions authorized by law.
- (11) If an administrative civil penalty is imposed on a responsible person because of a violation of any provision of this code resulting from prohibited use or activity on real property, and the penalty remains unpaid 30 days after such penalty become final, the city manager or designee shall assess the property the full amount of the unpaid fine and shall enter such an assessment as a lien in the docket of city liens. At the time such an assessment is made, the city manager or designee shall notify the responsible person that the penalty has been assessed against the real property upon which the violation occurred and has been entered in the docket of city liens. The lien shall be enforced in

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the same manner as liens for street improvements and shall bear interest at the rate prescribed in section 2.022 of this code. The interest shall commence from the date of entry of the lien in the lien docket.

(Section 2.018, added by Ordinance No. 19719, enacted October 8, 1990; effective October 17, 1990; amended by Ordinance No. 19722, enacted October 17, 1990, effective April 17, 1991; administratively amended by Ordinance No. 19742, enacted January 14, 1991; amended by Ordinance No. 19913, enacted April 26, 1993, effective May 26, 1993; Ordinance No. 20075, enacted January 27, 1997, effective February 26, 1997; administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998; amended by Ordinance No. 20169, enacted September 27, 1999, effective October 27, 1999; and Ordinance No. 20177, enacted November 8, 1999, effective December 8, 1999.)

2.019 City Manager - Administrative and Rulemaking Authority and Procedures.

- (1) Administrative authority.** The city manager or the city manager's designee shall have the authority to:
 - (a) Administer oaths;
 - (b) Audit records to assure conformance with this code;
 - (c) Certify official acts;
 - (d) Subpoena and require attendance of witnesses at meetings or hearings to determine compliance with this code;
 - (e) Require production of relevant documents;
 - (f) Swear witnesses;
 - (g) Take testimony of any person by deposition;
 - (h) Adopt rules for implementation of any provisions of this code; and
 - (i) Perform all other acts necessary to administer or enforce the provisions of this code.
- (2) Notice of Rulemaking.** Prior to the adoption, amendment, or repeal of any rule, the city shall give notice of intended rulemaking by:
 - (a) Making copies of the notice of intended rulemaking available to any person who has requested such notice, and to any business which possesses a license issued pursuant to the rule;
 - (b) Publishing the notice of intended rulemaking in a newspaper of general circulation for at least five days.
- (3) Contents of Notice.** The notice of intended rulemaking shall state the subject matter and purpose of the intended action in sufficient detail to inform a person that the person's interests may be affected, and the time, place, and manner in which interested persons may present their views on the intended action. This notice shall include:
 - (a) A citation of the city's legal authority to promulgate the rule;
 - (b) A statement of the need for the rule and a statement of how the rule is intended to meet the need; and
 - (c) A list of the principal documents, reports, or studies, if any, prepared by or relied upon by the city in considering the need for and in preparing the rule, and a statement of the location at which those documents are available for public inspection.
- (4) Opportunity for Comment.** The city shall give interested persons

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reasonable opportunity of not less than 15 days to submit data or views. The city manager shall make findings that consider fully any written submissions.

- (5) Temporary Rules. Notwithstanding the above, the city manager may adopt temporary rules that shall expire 180 days from the date of adoption of any addition to or revision of this code.
- (6) Emergency Rules. Notwithstanding the above, the city manager may adopt, amend, or suspend a rule without prior notice or hearing or upon any abbreviated notice and hearing that he/she finds practicable, if the city manager issues:
 - (a) A statement of findings that failure to act promptly will result in serious prejudice to the public interest or the interest of the parties concerned and the specific reasons for the findings of prejudice;
 - (b) A citation of the city's legal authority to promulgate the rule;
 - (c) A statement of the need for the rule and a statement of how the rule is intended to meet the need; and
 - (d) A list of the principal documents, reports, or studies, if any, prepared by or relied upon by the city in considering the need for and in preparing the rule, and a statement of the location at which those documents are available for public inspection.

Any rule adopted, amended, or suspended under this section is temporary and may not be effective for a period of longer than 180 days. The adoption of a rule under this section does not preclude the subsequent adoption of an identical rule under the permanent rule adoption procedures.

- (7) Mailing List. Any person may request in writing from the city, mailed copies of notices of intended action given pursuant to (2) (a). Upon receipt of any request, the city shall acknowledge the request, establish a mailing list, and maintain a record of all mailings made pursuant to requests.
- (8) Petition Requesting Adoption of Rule. Any interested person may petition the city requesting the promulgation, amendment, or repeal of a rule. The city manager may prescribe by rule the form or contents of such petitions and the procedure for their submission, consideration and disposition. Not later than 30 days after the date of submission of a petition, the city shall take action on the petition.
- (9) Basis for Rule. Unless otherwise provided by ordinance, the adoption, amendment, or repeal of a rule by the city manager need not be based upon or supported by an evidentiary record.
- (10) Validity of Rules. All rules shall be adopted in substantial compliance with the provisions of this section in effect on the date the rule is adopted.

(Section 2.019, formerly Section 3.012, renumbered and amended by Ordinance No. 19742, enacted January 14, 1991; amended by Ordinance No. 20015, enacted May 22, 1995, effective June 21, 1995; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

2.020 City Manager - Authority to Set Fees and Charges.

- (1) Except as this code provides to the contrary, the city manager shall determine and set all fees imposed by the city for services, goods, use of municipal property, licenses and permits. As used herein, "city manager" means the city manager or the manager's designee.
- (2) Unless the city manager determines in writing that consideration of one or more of the following factors is irrelevant or inapplicable, in determining the amount of any such fee the city manager shall consider:
 - (a) Applicable policies, enactments and directives of the council;
 - (b) The amount charged by the city in the past;
 - (c) The full costs of providing the service supported by the fee;
 - (d) The amounts charged by other comparable providers; and,
 - (e) The revenue needs of the city as determined by the adopted city budget.
- (3) At least 15 days prior to the initiation of a new fee or change in the amount of such a fee, the city manager shall give notice of the proposed fee by:
 - (a) Making copies of a notice of intended charges available to the mayor and city council, including the city manager's written determination, if any, that one or more of the factors listed in subsection (2) of this section is irrelevant or inapplicable;
 - (b) Making copies of a notice of intended charges available to any persons who have requested such notice;
 - (c) Publishing a notice of intended charges in a newspaper of general circulation within the city if the fee or charge is or is likely to be \$250.00 or greater; and,
 - (d) Posting such notice at two locations at city hall.
- (4) The notice shall state the current and proposed fee, and the time, place and manner in which interested persons may present written comments on the proposed fee. Defective notice shall not be grounds for invalidating any fee or charge.
- (5) After considering any written comments, the city manager shall set the fee by administrative order. All such administrative orders shall be compiled and retained at the city recorder's office. Copies of any administrative order setting or changing a general fee which is or is likely to be \$250.00 or greater shall be provided to the mayor and city council.

(Section 2.020 amended by Ordinance No. 18340, enacted February 14, 1979; Ordinance No. 19494, enacted August 3, 1987; Ordinance No. 19742, enacted January 14, 1991; administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998; and amended by Ordinance No. 20386, enacted May 29, 2007, effective June 30, 2007.)

2.021 Appeal Procedures.

- (1) A person aggrieved by an administrative action of the city manager or designee taken pursuant to a section of this code authorizing an appeal under this section may, within 15 days after the date of notice of the

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action, appeal in writing to the city manager. The appeal shall be accompanied by a fee as established by the city manager and shall state:

- (a) The name and address of the appellant;
- (b) The nature of the determination being appealed;
- (c) The reason the determination is incorrect; and
- (d) What the correct determination of the appeal should be.

An appellant who fails to file such a statement within the time permitted waives the objections, and the appeal shall be dismissed. Except as provided in subsection (6) of this section, the appeal fee is not refundable.

- (2) If a notice of revocation of a license or permit is the subject of the appeal, the revocation does not take effect until final determination of the appeal. Notwithstanding this paragraph, an emergency suspension shall take effect upon issuance of, or such other time stated in, the notice of suspension.
- (3) Unless the appellant and the city agree to a longer period, an appeal shall be heard by a hearings officer within 30 days of the receipt of the notice of intent to appeal. At least 10 days prior to the hearing, the city shall mail notice of the time and location thereof to the appellant.
- (4) The hearings officer shall hear and determine the appeal on the basis of the appellant's written statement and any additional evidence the hearings officer deems appropriate. At the hearing the appellant may present testimony and oral argument personally or by counsel. The rules of evidence as used by courts of law do not apply.
- (5) If the appeal is from a denial of a business license or other license or permit, the applicant shall carry the burden of proving entitlement to the license or permit and wherein the city erred in its denial. If the appeal is from a revocation or suspension of a business license or other license or permit, the city shall carry the burden of proving that the revocation or suspension was proper. In all other cases, the burden of presenting evidence to support a fact or position rests on the proponent of the fact or position.
- (6) The hearings officer shall issue a written decision within 10 days of the hearing date. The decision of the hearings officer after the hearing is final, and may include a determination that the appeal fee be refunded to the applicant upon a finding by the hearings officer that the appeal was not frivolous.

(Section 2.021, formerly Section 3.060, amended by Ordinance No. 19321, enacted April 22, 1985; Ordinance No. 19742, enacted January 14, 1991, effective February 14, 1991; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

2.022 **Interest Rates.** Except as provided in section 2.023 and for assessments deferred under section 7.205, and notwithstanding any provision in this code to the contrary, the interest rate per annum on all amounts due the city shall be established by administrative order of the city manager or the manager's

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designee within the maximum authorized by law, if applicable.

(Section 2.022 added by Ordinance No. 18616, enacted April 30, 1980; amended by Ordinance No. 19029, enacted September 29, 1982; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

- 2.023 Reduction in Rates.** For any amount due the city the interest rate established in section 2.022 may be reduced upon findings by the city manager that:
- (a) The interest revenue collected exceeds the full cost of managing the amounts due the city including the city's costs of retiring any debt incurred by the city; and
 - (b) There will be no significant loss of city general revenues as a result of the reduction; and
 - (c) All similarly situated obligors of the city will receive a comparable benefit from the reduction.

(Section 2.023 added by Ordinance No. 18616, enacted April 30, 1980.)

- 2.024 Revocation of Reduction.** The city manager may revoke any reduction of interest rate authorized by section 2.023 whenever the findings required by that section no longer exist.

(Section 2.024 added by Ordinance No. 18616, enacted April 30, 1980.)

Real Property Compensation

2.070 Real Property Compensation - Purpose and Definitions.

- (1) Purpose. Sections 2.070 through 2.095 of this code implement the provisions added to Chapter 197 of Oregon Revised Statutes by Ballot Measure 37 (November 2, 2004). These provisions establish a prompt, open, thorough and consistent process that enables property owners an adequate and fair opportunity to present their claims to the city; preserves and protects limited public funds; and establishes a record of the city's decision capable of circuit court review.
- (2) Definitions. As used in sections 2.070 through 2.095, the following words and phrases mean:
 - City manager. The city manager of the city, or his or her designee.
 - Claim. A claim filed under Ballot Measure 37.
 - Exempt land use regulation. A land use regulation that:
 - (a) Restricts or prohibits activities commonly and historically recognized as public nuisances under common law;
 - (b) Restricts or prohibits activities for the protection of public health and safety, such as fire and building codes, health and sanitation regulations, solid or hazardous waste regulations, and pollution control regulations;
 - (c) Is required in order to comply with federal law;
 - (d) Restricts or prohibits the use of property for the purpose of selling pornography or performing nude dancing; or

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- (e) Was enacted prior to the date of acquisition of the property by the owner or a family member of the owner.

Family member. Includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner of the property, an estate of any of the foregoing family members, or a legal entity owned by any one or combination of these family members or the owner of the property.

Land use regulation. Includes:

- (a) Any statute regulating the use of land or any interest therein;
- (b) Administrative rules and goals of the Land Conservation and Development Commission; and
- (c) Local government comprehensive plans, zoning ordinances, land division ordinances, and transportation ordinances.

Owner. The present owner of the property, or any interest therein.

Valid claim. A claim submitted by the owner of real property that is subject to a land use regulation, other than an exempt land use regulation, adopted or enforced by the city that restricts the use of the private real property in a manner that reduces the fair market value of the real property.

(Section 2.070 added by Ordinance No. 20331, enacted and effective November 30, 2004.)

2.075 Real Property Compensation – Claim Submittal Procedure.

- (1) A person seeking to file a claim under sections 2.070 to 2.095 of this code must be the present owner of the property that is the subject of the claim at the time the claim is submitted. The claim shall be filed with the city manager's office, or another city office if so designated by the city manager.
- (2) A claim shall include:
 - (a) The name(s), address(es) and telephone number(s) of all owners, and anyone with any interest in the property, including lien holders, trustees, renters, lessees, and a description of the ownership interest of each;
 - (b) The address, tax lot, and legal description of the real property that is the subject of the claim, together with a title report issued no more than 30 days prior to the submission of the claim that reflects the ownership interest in the property, or other documentation reflecting ownership of the entire property by the claimant(s), and the date the property was acquired;
 - (c) The current land use regulation(s) that allegedly restricts the use of the real property and allegedly causes a reduction in the fair market value of the subject property;
 - (d) The amount of the claim, based on the alleged reduction in value of the real property supported by an appraisal by an appraiser who is licensed or certified by the Appraiser Certification and

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- Licensure Board of the State of Oregon and who is not a business partner nor family member of any owner of the property; and
- (e) Copies of any leases or Covenants, Conditions and Restrictions ("CCR's) applicable to the real property, if any, that impose restrictions on the use of the property.
 - (3) Notwithstanding a claimant's failure to provide all of the information required by subsection (2) of this section, the city may review and act on a claim.
 - (4) Following receipt of a claim, the city manager shall post on the city's website information related to the claim, including the name(s) of the claimant(s), the location of the property, the regulation(s) identified in the claim, and the amount claimed. The city manager shall also e-mail the information to the neighborhood groups or community organizations officially recognized by the city council whose boundaries include the subject property.

(Section 2.075 added by Ordinance No. 20331, enacted and effective November 30, 2004.)

2.080 Real Property Compensation – Fees.

- (1) As part of the application, the claimant shall include a fee deposit of \$1,500. If the claimant provides all of the information identified in section 2.075(2), no additional fee beyond the deposit shall be required from the claimant. If the claimant does not provide all of the information requested in section 2.075(2), then the city manager shall maintain a record of the city's costs in processing a claim, including the costs of obtaining information required by section 2.075 which a property owner does not provide to the city. Following final action by the city on the claim at the local level, the city manager shall send to the property owner a bill for the lesser of (a) the actual costs, including staff and legal costs, that the city incurred in reviewing and acting on the claim, or (b) \$7,500 plus the cost of any appraisal.
- (2) If the property owner does not pay the amount due within 30 days, then the city shall pursue collection, including, if necessary, filing a lien on the property.

(Section 2.080 added by Ordinance No. 20331, enacted and effective November 30, 2004.)

2.085 Real Property Compensation - City Manager Recommendation.

- (1) Following an investigation of a claim, the city manager shall forward to the city council a recommendation, together with an explanation to support the recommendation, that the claim be:
 - (a) Denied;
 - (b) Investigated further;
 - (c) Declared valid, and waive or modify the land use regulation, or compensate the claimant upon completion of an appraisal; or
 - (d) Evaluated with the expectation of the city acquiring the property, by condemnation if necessary.
- (2) If the city manager's recommendation is that a claim be denied, and no city elected official informs the city manager within 14 days that the

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official disagrees, then the city manager may deny the claim. If an elected official objects, then the city manager shall wait an additional seven days to see whether three more elected officials object to the proposed denial. If they do, then the city manager shall schedule a work session with the city council. If not, the city manager may deny the claim.

(Section 2.085 added by Ordinance No. 20331, enacted and effective November 30, 2004.)

2.090 Real Property Compensation - City Council Decision.

- (1)** The city council may conduct a public hearing before taking final action on a recommendation from the city manager. The city council shall not waive or modify a land use regulation unless the council first holds a public hearing. Notice of a public hearing shall be mailed at least 14 days prior to the public hearing, and shall at a minimum be sent to the claimant, to owners and occupants of property within 300 feet of the perimeter of the subject property, and neighborhood groups or community organizations officially recognized by the city council whose boundaries include the subject property.
- (2)** Upon conclusion of any hearing, and consistent with any requirements of state law, the city council shall adopt a resolution that:
 - (a)** Determines that the claim is a valid claim and removes or modifies land use regulation(s) with respect to the subject property to allow the owner to use the property for a use permitted at the time the owner acquired the property;
 - (b)** Determines that the claim is a valid claim and compensation is due to the claimant in an amount set forth in the council's resolution;
 - (c)** Determines that the claim is a valid claim and that the city should acquire the property; or
 - (d)** Denies the claim.
- (3)** The city council's decision to waive or modify a land use regulation or to compensate the owner shall be based upon consideration of whether the public interest would be better served by compensating the applicant, or by removing or modifying the challenged land use regulation(s) with respect to the subject property.
- (4)** If the city council removes or modifies the challenged land use regulation, the council may as part of the decision re-impose with respect to the subject property, all of the land use regulations in effect at the time the claimant acquired the property.
- (5)** A decision by the city council to remove or modify a land use regulation shall be transferable to a future purchaser of the property to the extent required by the Ballot Measure 37.
- (6)** If the city council adopts a resolution under (2)(a) or (2)(b) of this section, the city manager shall record on the property a copy of the resolution with Lane County Records.

(Section 2.090 added by Ordinance No. 20331, enacted and effective November 30, 2004; and amended by Ordinance No. 20388, enacted and effective July 23, 2007.)

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2.095 Real Property Compensation – Private Cause of Action. If the city council's approval of a claim by removing or modifying a land use regulation causes a reduction in value of other property located in the vicinity of the claimant, the neighbor(s) shall have a cause of action in state circuit court to recover from the claimant the amount of the reduction. The prevailing party in such an action shall be entitled to reasonable attorney's fees and costs at trial and upon appeal.

(Section 2.095 added by Ordinance No. 20331, enacted and effective November 30, 2004.)

2.150 Labor Contract Conditions.

(Section 2.150, formerly section 2.030 amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998; renumbered by Ordinance No. 20219, enacted November 27, 2000; and repealed by Ordinance No. 20409.)

2.170 Transient Room Tax - Expenditure. Net proceeds from the transient room tax may be expended only for the acquisition, construction, operation, and maintenance of recreational, cultural, convention and tourist related facilities and for recreational, cultural, convention and tourist related services.

(Section 2.170, formerly section 2.070, added by Ordinance No. 17987, enacted May 9, 1977; and renumbered by Ordinance No. 20219, enacted November 27, 2000.)

Boards and Commissions

2.175 Eugene Water & Electric Board - Creation; Composition.

- (1) There is hereby created the Eugene Water & Electric Board, hereinafter referred to as the "board."
- (2) The board is composed of five members, one from wards 1 and 8, one from wards 2 and 3, one from wards 4 and 5, one from wards 6 and 7, and one from the city at large, to be nominated and elected as provided in sections 2.964 and 2.966 of this Code. Nothing in this provision disqualifies, or shortens the term of office of, a member of the board.
- (3) Each member shall serve without pay and hold no other city office while a member of the board.

(Section 2.175 amended by Ordinance No. 18106, enacted January 18, 1978.)

2.185 Eugene Water & Electric Board - Officers and Employees.

- (1) The board shall elect a president and vice-president who shall hold office for one year and until their successors are elected.
- (2) The board shall have power and authority to employ a secretary and such other officers, agents and employees as may be necessary to carry out their duties and powers and shall fix the compensation for the same.

2.190 Eugene Water & Electric Board - Authority to Acquire and Operate Electric Power System.

The board is authorized and empowered to exercise in the place and stead of, in the name of and as agent for the city, all of the powers of the city with respect to the acquisition, ownership, maintenance, operation and control of the city's electric power and lighting system, including the sale and distribution of energy therefrom conferred by the Charter, including all amendments thereto.

2.195 Eugene Water & Electric Board - Duties and Powers.

The board shall have entire control of the water and electric utilities of the city, and all property connected therewith. It shall be the duty of the board to operate the entire system and make extensions to the same when deemed advisable, and have entire control of all water and electric funds and disbursements thereof and keep an account of the same at all times to show the true cost of the system, its extensions, and yearly operation, the amount of outstanding bonds and current bills, and the disposition of the revenues of the system. The board shall make semi-annual reports to the council and other reports as may be called for by the council.

2.196 Eugene Water & Electric Board - Disposition of Real Property.

The board may dispose of real property not needed for utility purposes in accordance with state law. In the event the board or its designee determines that real property is not needed for utility purposes, it shall afford the city the opportunity to obtain the property for other municipal purposes by notifying the city manager of its availability. If the city desires to obtain the property,

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the city manager shall request negotiation within thirty (30) days of the notification. As soon as possible after notification, the city manager and the board's general manager shall negotiate an agreement to compensate the board for the property transferred in accordance with agreed criteria. Any agreed transfer to the city and compensation to the board shall be completed within five (5) years from the date of notification. The board may dispose of the property by such means and terms as it deems appropriate if the city manager fails to request negotiations within thirty (30) days of notification of availability or if the property transfer is not completed within five (5) years of that notification.

(Section 2.196 added by Ordinance No. 19465, enacted April 22, 1987.)

2.200 Eugene Water & Electric Board - Deposit and Disbursement of Revenue.

- (1) The board shall deposit the revenues derived from the utilities with its treasurer who shall disburse the same on warrants approved by the board.
- (2) Except as otherwise required by the terms of any bond issue outstanding, the board shall receive, control, dispose of and account for income derived from utilities owned by the city.

2.205 Eugene Water & Electric Board - Meetings.

- (1) A majority of the board shall constitute a quorum to do business.
- (2) The board shall meet at its executive offices in the city as designated by it at regularly stated times to be determined by it. Special meetings may be called by the direction of the president or vice-president or a majority of the board. A written notice of special meetings shall be given to each member of the board by the secretary.
- (3) The board shall have power to declare vacant the office of a member who is absent from three consecutive regular meetings without an excuse satisfactory to the board.

(Section 2.205 administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

2.210 Eugene Water & Electric Board - Sale of Surplus Electrical Power; Fixing Rates. It shall be the duty of the board to sell to the public, at uniform rates to be fixed by it, any surplus electrical power over and above what may be needed for the operation of the water plant or any other municipal purpose, and to fix rates and prescribe suitable rules and regulations for the operation of the utilities.

2.212 Extraterritorial Water and Sewer Service Extensions. The city, including EWEB, shall not provide water, water service or sewer service outside the city limits except as authorized pursuant to the city charter, this code, and adopted resolutions. The city manager or the manager's designee is hereby authorized to receive on behalf of the city requests for the extra-territorial extensions of water service or sewer service from inside the city limits to

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serve property located outside the city limits or for the provision of water or sewer service to special service districts. Such requests shall be accompanied by the application fee established by the city manager as provided by section 2.020 of this code. Requests for the extra-territorial extension of water service or sewer service shall be processed and approved or denied as provided in section 9.8115 to 9.8121 of this code.

(Section 2.212 added by Ordinance No. 17492, enacted December 22, 1975; amended by Ordinance No. 17630, enacted April 26, 1976; Ordinance No. 19625, enacted July 10, 1989; and Ordinance No. 20400, adopted 12/10/2007, effective January 1, 2008.)

- 2.220 Riverfront Research Park Commission - Created.** A riverfront research park commission is established to make recommendations to the city and the University of Oregon in connection with the development of the Riverfront Research Park property. It is the intent that cooperative efforts between the city and the University of Oregon will be focused in this commission, which will provide a forum for public participation and public comment on plans and actions necessary for the development of the Riverfront Research Park property.

(Section 2.220 added by Ordinance No. 19366, enacted November 20, 1985.)

- 2.222 Riverfront Research Park Commission - Duties.**

- (1)** In making its recommendations to the city and to the President of the University of Oregon, the riverfront research park commission shall conduct research, hold hearings, study, investigate, analyze, and make expert evaluations of proposals, concerning development for the Riverfront Research Park property.
- (2)** At the joint request of the city and the University of Oregon, the commission shall make recommendations regarding the application of project revenues from tax increment financing and lease income to meet project needs.

(Section 2.222 added by Ordinance No. 19366, enacted November 20, 1985.)

- 2.224 Riverfront Research Park Commission - Membership, Term of Office.**

- (1)** The commission shall consist of seven members. Three members shall be nominated by the mayor and appointed by the council. Four members shall be selected by the president of the University of Oregon, who shall submit their names and qualifications to the mayor for appointment.
- (2)** All members shall be selected on the basis of their prior knowledge of the community as well as prior training or experience with respect to the planning, development, financing and marketing of public improvements, commercial property, industrial property, or similar developments, or with respect to planning large-scale science and research programs. It is not the intent that there be representatives of the city or University of Oregon on the commission. The intent is to have highly qualified people serve as expert advisors to the University

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of Oregon president and the city of Eugene.

- (3) In order to insure that the commission is composed of the most qualified members available and willing to serve, the requirement of section 2.013(6) of this code that members reside within the city's urban growth boundary is specifically waived, and members need not reside within the city's urban growth boundary at the time of their appointment or during their term of office.
- (4) For the term of office to commence January 1, 1988, four members shall be appointed for a two year term and three members shall be appointed for a one year term. Thereafter, each member shall serve for a term of two years from the date of his or her appointment.
- (5) Vacancies in office shall be filled in the same manner as original appointments.
- (6) No officer or employee of the city of Eugene, the University of Oregon, or the State Board of Higher Education may serve on the commission.

(Section 2.224 added by Ordinance No. 19366, enacted November 20, 1985; amended by Ordinance No. 19524, enacted December 9, 1987; and Ordinance No. 19579, enacted October 10, 1988.)

2.226 Riverfront Research Park Commission - Officers, Meetings, Rules and Procedures.

- (1) The officers of the commission shall be a president and a vice-president, elected by the commission from among the commissioners. The president shall preside over meetings of the commission and shall have the right to vote. The vice-president shall perform the duties of the president in the absence or disability of the president. The officers shall serve for terms of two years unless the commission establishes a different term.
- (2) The commission shall hold meetings at such times as it deems necessary to properly perform its duties.
- (3) The commission may adopt a plan of internal organization and rules of procedure for the conduct of its business, consistent with state law, the charter, code, ordinances and resolutions of the city and policies of the University of Oregon. Meetings and other activities of the commission, its officers and any committees shall conform to the rules, state statutes, charter provisions, code, ordinances and resolutions of the city and policies of the University of Oregon.

(Section 2.226 added by Ordinance No. 19366, enacted November 20, 1985.)

2.240 Civilian Review Board – Established.

- (1) There is hereby established a civilian review board of not to exceed seven members, whose goal shall be to increase the transparency of, and public confidence in, the police complaint process. In general, the civilian review board shall evaluate the work of the independent police auditor, and may review completed complaint investigations involving sworn police employees to provide comment, from a civilian

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perspective, about whether the complaint was handled fairly and with due diligence.

- (2) It is intended that sections 2.240 through 2.246 and 2.450 through 2.456 will provide a system of independent oversight of the police complaint process and implement section 15-A of the Eugene Charter of 2002 as adopted by the city electorate on November 8, 2005.
- (3) Except where the context requires otherwise, the definitions contained in section 2.452 of this code govern the words and phrases used in sections 2.240 through 2.246 of this code.
- (4) The civilian review board shall serve as an advisory body to the city council.

(Section 2.240 added by Ordinance No. 20374, enacted December 13, 2006, effective January 12, 2007.)

2.242 Civilian Review Board – Qualifications and Appointments.

(1) Qualifications.

- (a) Members of the civilian review board shall be volunteers appointed by the city council, who immediately prior to appointment shall be:
 - 1. A resident of the city;
 - 2. Of the age of 18 years or older; and
 - 3. Able to pass a background investigation consistent with investigations conducted for other city volunteers who have similar access to police records and/or facilities.
- (b) The following characteristics shall be considered by the city council when appointing members to the civilian review board:
 - 1. A demonstrated ability to be fair, impartial and unbiased;
 - 2. An absence of any real or perceived bias, prejudice or conflict of interest;
 - 3. A record of community involvement;
 - 4. An ability to build working relationships and communicate effectively with diverse groups; and
 - 5. A demonstrated commitment to the purpose of sections 2.240 through 2.246 and 2.450 through 2.456.
- (c) Appointments to the civilian review board shall not be made on the basis of constituency or representation of any particular group. A candidate selection process that includes a community panel to review applications and recommend qualified candidates for city council consideration shall be developed by the mayor, in consultation with the police auditor, to help achieve a balanced membership.
- (d) Members of the civilian review board shall neither be a current employee of the city nor an immediate family member of a current city police employee.
- (e) Civilian review board members shall participate in a training program to be developed by the police auditor.

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- (f) Members of the civilian review board shall agree in writing to a Statement of Principles and Code of Conduct, to be developed by the police auditor and reviewed and maintained in collaboration with the civilian review board.
 - (g) It is the intent that civilian review board members be free from personal liability for acts taken within the course and scope of carrying out their official duties and functions. The city will therefore defend and indemnify members to the maximum extent permitted under the Oregon Tort Claims Act and other applicable law.
- (2) Terms and Vacancies. Initial appointments shall be staggered as follows: If there are seven (7) members appointed, four (4) members shall be appointed to serve for two (2) years and three (3) members shall be appointed to serve for three (3) years; if there are five (5) members appointed, three (3) members shall be appointed to serve for two (2) years and two (2) members shall be appointed to serve for three (3) years. Except for the initial appointment, the term of each member of the civilian review board shall be three (3) years. No member shall serve more than three (3) consecutive terms. A vacancy that occurs during the term of a member shall be filled in the same manner as the original appointment, and the appointee shall serve for the remainder of the unexpired term.
- (3) Removal from Office.
- (a) A member of the civilian review board may be removed from office by the city council prior to the normal expiration of his/her term for consistent failure to perform civilian review board member duties, or violation of the Statement of Principles/Code of Conduct.
 - (b) Membership on the civilian review board shall terminate automatically if a member ceases to meet the qualification requirements as described in (1)(a)1, (1)(a)3, and (1)(d) above subsequent to his/her appointment.

(Section 2.242 added by Ordinance No. 20374, enacted December 13, 2006, effective January 12, 2007.)

2.244 Civilian Review Board – Powers and Duties.

- (1) In collaboration with the police auditor, the civilian review board shall establish policies, procedures and operating principles for the civilian review board.
- (2) The civilian review board may review the completed investigation and adjudication of complaints filed against sworn police officers at the request of a complainant, upon the recommendation of the police auditor, or at its own discretion upon a majority vote of its members.
 - (a) The civilian review board shall develop criteria to decide whether to accept a case for review. However, the civilian review board may not accept a completed case that was previously reviewed as a community impact case as described in subsection (4) below.

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- (b) All materials concerning the completed investigations of cases the civilian review board has selected to review shall be made available to members for their confidential review.
 - (c) The civilian review board shall, at one of its regularly scheduled meetings, report on such case(s), which may include comments on the handling of the complaint, the fairness and thoroughness of the investigation, and the reasonableness of the adjudication.
 - (d) The comments and any related policy or procedural issues identified by the civilian review board in the course of its case review shall be provided to the police auditor for further consideration.
- (3) The civilian review board may review a random selection of closed cases.
- (4) Upon the adjudication of a complaint that the police auditor has identified and the civilian review board has accepted as a community impact case, members of the civilian review board shall be provided all materials concerning the case for their confidential review. Within 14 days of receiving the case, the civilian review board shall meet to discuss and present its determinations on the case. Within 30 days of receiving the case the civilian review board shall do one or more of the following:
- (a) Concur with the case adjudication;
 - (b) Develop recommendations regarding the handling of the complaint and the investigation process, and/or identify other relevant policy or procedural issues for further consideration;
 - (c) Require the city to reopen the investigation if it finds either:
 - 1. The investigation was incomplete or inadequate, and the civilian review board has reason to believe that additional investigation is likely to reveal facts that could change the case adjudication; or
 - 2. The adjudication reached by the city is not supported by substantial evidence.
- When the civilian review board has voted to re-open a community impact case, the police auditor shall inform the civilian review board of the subsequent investigation conducted and the final adjudication decision.
- (5) The civilian review board shall notify complainant(s) and involved employee(s) of its decisions on whether to accept a case for review, and shall inform the complainant of its conclusions on the case.
- (6) The civilian review board shall review trends and statistics of complaints against sworn police officers and civilian police employees and may develop recommendations to improve the complaint intake and handling process.
- (7) The civilian review board shall evaluate the work of the auditor's office. In that regard the civilian review board:
- (a) Shall establish criteria by which to evaluate the work of the police auditor;

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- (b) Shall review, comment on, and assist in maintaining policies, procedures and operating principles for the auditor's office and the civilian review board;
 - (c) Shall monitor status reports from the police auditor; and
 - (d) May conduct periodic evaluations of the complaint intake and handling system to identify process improvements and/or ensure complaints are being treated fairly and with due diligence.
- (8) The civilian review board may provide a forum to gather community concerns about incident-specific police actions and may receive and forward complaint information to the auditor's office for processing.

(Section 2.244 added by Ordinance No. 20374, enacted December 13, 2006, effective January 12, 2007.)

2.246 Civilian Review Board – Officers, Meetings, and Procedures.

- (1) The civilian review board shall annually elect from among its membership a chairperson and a vice-chairperson who shall serve in that position for no more than three (3) consecutive one-year terms.
- (2) The civilian review board shall nominate one of its members to serve jointly on the civilian review board and the police commission, which nomination shall be subject to the approval or rejection of the city council.
- (3) The auditor's office shall be liaison to, and provide staff support for, the civilian review board.
- (4) The civilian review board may appoint from its membership committees as necessary to perform its duties.
- (5) The civilian review board shall hold regular meetings with an opportunity for public comment at least quarterly, and the civilian review board and its committees may hold additional meetings as necessary. No business of the civilian review board shall be conducted at a meeting without at least a quorum of three (3) members on a five (5) member board or four (4) members on a seven (7) member board present. All actions of the civilian review board shall be made upon a simple majority vote of the members present.
- (6) Meetings of the civilian review board shall be open to the public except when executive sessions are authorized by law and the civilian review board has determined an executive session is necessary or desirable in order to carry out its business. To facilitate the transparency of the civilian review board's activities, the police auditor will develop and present case summaries and status reports in a manner that allows review and discussion in open session, to the maximum extent practicable.
- (7) The civilian review board shall prepare and present an annual report to the city council that:
 - (a) Summarizes the civilian review board's activities, findings and recommendations during the preceding year;
 - (b) Assesses the performance of the police auditor consistent with section 2.244(7); and

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- (c) Evaluates the work of the auditor's office, including whether the auditor's office is functioning as intended.
- (8) The civilian review board may develop additional reports deemed necessary by it, or as requested by the city council. All reports generated by the civilian review board shall strive to protect the privacy of all individuals and shall not contain the names of parties to a complaint (employees, complainants and/or witnesses) not previously disclosed. The city council shall review and take appropriate action on reports submitted by the civilian review board.
- (9) In collaboration with the auditor's office, the civilian review board may conduct education and outreach activities to inform the community about the process for filing complaints and commendations about police employees. The civilian review board and police auditor shall work together to develop and disseminate information and forms regarding the police complaint handling and review system.
- (10) The civilian review board, or its individual members, may not:
 - (a) Investigate complaints or incidents involving police employees;
 - (b) Issue subpoenas or call witnesses;
 - (c) Review employee discipline decisions except in the context of reviewing trend reports from the auditor's office consistent with section 2.454(1)(f)3.; or
 - (d) Incur city expenses or obligate the city in any way without the prior authorization of the police auditor or city council.

(Section 2.246 added by Ordinance No. 20374, enacted December 13, 2006, effective January 12, 2007.)

2.260 Human Rights Commission. There is hereby created a human rights commission, referred to in sections 2.260 to 2.280 of this code as "the commission."

(Section 2.260 amended by Ordinance No. 17479, enacted November 24, 1975, Ordinance No. 18001, enacted June 13, 1977, Ordinance No. 18421, enacted June 20, 1979; Ordinance No. 19083, enacted December 13, 1982; and Ordinance No. 19732, enacted November 5, 1990.)

2.265 Human Rights Commission - Duties and Powers.

- (1) The commission shall affirm, encourage and initiate programs and services within the community and advise and support city of Eugene services designed to place priority upon protecting, respecting, and fulfilling the full range of universal human rights as enumerated in the Universal Declaration of Human Rights. To support and promote human rights, the commission will:
 - (a) Provide human rights education;
 - (b) Be proactive in human rights efforts;
 - (c) Address human rights violations;
 - (d) Ensure active public participation;
 - (e) Be transparent and open; and
 - (f) Be publicly accountable for human rights progress.
- (2) The commission shall help the city of Eugene and the community work

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toward the elimination of systemic barriers to equitable treatment and toward inclusion and accommodation of differences among people. The commission will promote justice and equal opportunity for all. In these efforts, the commission may enlist the support of community groups and public agencies.

- (3) The commission shall endeavor to ascertain the status of civil and human rights in the community. The commission may explore, research and hold hearings to effectuate this provision.
- (4) The commission shall make periodic recommendations to elected officials and the city manager concerning the civil and human rights of persons and groups in the community.
- (5) The commission shall cooperate with the city officials to ensure that the city of Eugene is a leader in extending equal opportunity to its community members, including but not limited to:
 - (a) Employment opportunities in city government;
 - (b) Training for city jobs;
 - (c) Equality of city services provided;
 - (d) Equality of all before the law; and
 - (e) Equal treatment of all by holders of city licenses, contracts and privileges.
- (6) The commission shall cooperate with the city of Eugene in ensuring that the city is receiving, referring and/or investigating specific acts of discrimination against individuals in the community.
- (7) The commission shall work to educate and encourage community members to report acts of discrimination, hate and bias, to the city of Eugene.

(Section 2.265 amended by Ordinance No. 17479, enacted November 24, 1975; Ordinance No. 19732, enacted November 5, 1990; Ordinance No. 20264, enacted November 12, 2002, effective December 12, 2002; and Ordinance No. 20481, enacted November 28, 2011, effective December 30, 2011.)

2.270 Human Rights Commission - Membership.

- (1) The commission shall consist of:
 - (a) One member of the city council or the mayor;
 - (b) Ten community members with a demonstrated knowledge and interest in the civil and human rights concerns of the community. Members shall be appointed in a way that strives to have balance on the commission that reflects the community and has protected class representation.
- (2) Members of the commission shall be persons who have actively demonstrated an interest and expertise in efforts to promote diversity, equality, equity and understanding of human rights, and to dismantle injustice, discrimination, bigotry, hatred and harassment within the city.
- (3) Members shall be appointed by the council. The commission shall perform the initial review of applications and make recommendations to council for its consideration.
- (4) Vacancies on the commission shall be filled in the same manner as

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original appointments. Except where the vacancy occurs because the member from the council or the mayor ceases to serve on the commission, the council shall appoint, within 90 days of the position becoming vacant, a person to complete the member's unexpired term from the non-commission members of the commission's standing committees. A position becomes vacant upon:

- (a) The death or resignation of the incumbent;
 - (b) Removal of an incumbent for nonperformance of duty or upon recommendation by the commission after the commission has determined that the incumbent has failed to properly represent the commission or otherwise damaged the work of the commission, and the council has concurred with that determination;
 - (c) Failure of the council to reappoint an incumbent at the expiration of his or her term; or
 - (d) The incumbent ceasing to be qualified for initial appointment.
- (5) Each community member of the commission shall serve a three-year term. No member of the commission shall serve more than six consecutive years as a member of the commission.

(Section 2.270 added by Ordinance No. 17479, enacted November 24, 1975; amended by Ordinance No. 17748, enacted September 13, 1976; Ordinance No. 19083, enacted December 13, 1982; Ordinance No. 19732, enacted November 5, 1990; Ordinance No. 19926, enacted June 28, 1993; Ordinance No. 20264, enacted November 12, 2002, effective December 12, 2002; and Ordinance No. 20481, enacted November 28, 2011, effective December 30, 2011.)

2.275 Human Rights Commission - Officers, Meetings, Rules and Procedures.

- (1) The officers of the commission shall be a chairperson and a vice-chair elected by the commission from among the members of the commission. The chairperson shall preside over meetings of the commission and shall have the right to vote. The vice-chair shall perform the duties of the chairperson in the absence or disability of the chairperson. The officers shall serve for terms of one year.
- (2) The commission shall meet at least six times a year, with such additional meetings as it deems necessary to properly perform its duties.
- (3) The commission may make and alter rules for its conduct and procedure, providing they are consistent with state law and applicable provisions of the city charter, ordinances and policies.
- (4) The commission may approve a leave of absence, not to exceed three months, for a commissioner who is temporarily unable to fulfill the duties of a commissioner.
- (5) Fifty percent plus one of the current membership, not including any commissioner who is on leave of absence, shall constitute a quorum.
- (6) The city manager may, within his or her discretion, furnish staff assistance to the commission or to the commission's working groups.

(Section 2.275 added by Ordinance No. 17748, enacted September 13, 1976; amended by Ordinance No. 19732, enacted November 5, 1990; administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998; and amended by Ordinance No. 20481,

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enacted November 28, 2011, effective December 30, 2011.)

2.280 Human Rights Commission – Work Plan and Task Groups.

- (1) The Commission shall create a work plan that is reviewed by the city manager and approved by the mayor and city council.
- (2) The commission may create working group(s) to help achieve the work plan goals.
 - (a) Each working group will be led by a commission member.
 - (b) Membership, powers and rules of conduct and procedure of the working group(s) will be determined by the whole commission.
 - (c) Commission working group(s) will abide by Oregon public meetings law.
- (3) The commission shall present its work plan accomplishments and work plan status annually to the city council.

(Section 2.280 added by Ordinance No. 17748, enacted September 13, 1976, and amended by Ordinance No. 18001, enacted June 13, 1977; Ordinance No. 19083, enacted December 13, 1982; Ordinance No. 19579, enacted October 10, 1988; Ordinance No. 19732, enacted November 5, 1990; Ordinance No. 19941, enacted November 22, 1993, effective December 22, 1993; Ordinance No. 20264, enacted November 12, 2002, effective December 12, 2002; and Ordinance No. 20481, enacted November 28, 2011, effective December 30, 2011.)

2.325 Planning Commission - Created. There is created a city planning commission, hereinafter referred to as "commission."

2.330 Planning Commission - Composition; Term; Vacancies; Etc.

- (1) The commission shall consist of seven members to be appointed by the council.
- (2) The members of the commission shall hold office for four years.
- (3) Any member who misses more than six consecutive regular meetings without having been given a leave of absence by the council shall be removed by the council, and another member shall be appointed by the council to complete the unexpired term of such member.
- (4) Commission members shall receive no compensation but shall be reimbursed for duly authorized expenses.
- (5) Any vacancy in the commission shall be filled by the council for the unexpired term of the predecessor in office.

(Section 2.330 amended by Ordinance No. 16973, enacted January 28, 1974; Ordinance No. 18421, enacted June 20, 1979; Ordinance No. 19303, enacted January 9, 1985; and Ordinance No. 20410, enacted June 9, 2008, effective July 11, 2008.)

2.331 Planning Commission - Removal. A planning commission member may be removed by the council, after hearing, for misconduct or nonperformance of duty.

(Section 2.331 added by Ordinance No. 16973, enacted January 28, 1974, and amended by Ordinance No. 18421, enacted June 20, 1979.)

2.332 Planning Commission - Distribution of Interests. No more than two members of the commission shall be engaged principally in buying, selling or

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developing of real estate for a profit as individuals or be members of any partnership, or officers or employees of any corporation, that is engaged principally in buying, selling, or developing of real estate for a profit. No more than two members shall be engaged in the same kind of business, trade or profession.

(Section 2.332 added by Ordinance No. 16973, enacted January 28, 1974; and amended by Ordinance No. 20410, enacted June 9, 2008, effective July 11, 2008.)

2.333 Planning Commission - Conflict of Interest. A member of the planning commission shall not participate in any commission proceeding or action in which any of the following has a direct or substantial financial interest: the member or member's spouse, brother, sister, child, parent, father-in-law, mother-in-law, any business in which the commissioner is then serving or has served within the previous two years, or any business with which the commissioner is negotiating for or has an arrangement or understanding concerning prospective partnership or employment. Any actual or potential interest shall be disclosed at the meeting of the commission where the action is being taken.

(Section 2.333 added by Ordinance No. 16973, enacted January 28, 1974; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

2.335 Planning Commission - Officers and employees.

- (1) The commission shall elect a chair and vice-chair, who shall be voting members and who shall hold office during the pleasure of the commission.
- (2) The commission shall designate a secretary who need not be a member of the commission. The secretary shall ensure that an accurate record of all proceedings of the commission is kept.
- (3) The commission shall have the power and authority to employ consulting advice on municipal problems and such staff as may be necessary, and to pay for their services, and for the other expenses as the commission may lawfully incur out of funds at the disposal of the commission, as authorized by the council. The expenses shall include necessary disbursements incurred by its members in the performance of their duties as members of the commission.

(Section 2.335 amended by Ordinance No. 20410, enacted June 9, 2008, effective July 11, 2008.)

2.340 Planning Commission - Annual Report. The commission shall make and file with the council, a report of all transactions as required by law.

2.345 Planning Commission - Meetings.

- (1) The commission may make and alter rules and regulations for its government and procedure, including the dates, times and places of its meetings, consistent with the laws of the state, the city Charter and ordinances.
- (2) Four members of the commission shall constitute a quorum.

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(Section 2.345 amended by Ordinance No. 20100, enacted December 1, 1997, effective December 31, 1997; and by Ordinance No. 20410, enacted June 9, 2008, effective July 11, 2008.)

- 2.350 Planning Commission - Duties and Powers.** It shall be the duty of the commission, and it shall have power, except as otherwise provided by law:
- (a)** To keep current a General Plan for the city adopted by the council as an official guide to public and private uses of land.
 - (b)** To prepare city legislation that will implement the purposes of the General Plan.
 - (c)** To cooperate with private developers and public agencies in providing an adequate supply of housing for low income families.
 - (d)** To recommend and make suggestions to the council and to all other public authorities concerning laying out, widening, extending and locating of streets and parking areas, sidewalks and boulevards, relief of traffic congestion, betterment of housing and sanitation conditions and establishment of zones or districts limiting the use, height, area and bulk of buildings and structures.
 - (e)** To recommend to the council and all other public authorities plans for regulation of future growth, development and beautification of the municipality in respect to its public and private buildings and works, streets, parks, grounds and vacant lots, and plans consistent with future growth and development of the city in order to secure to the city and its inhabitants sanitation, proper service of all public utilities and transportation facilities.
 - (f)** To study and propose in general such measures as may be advisable for promotion of the public interest, health, morals, safety, comfort, convenience and welfare of the city and of the area six miles adjacent thereto.
 - (g)** To serve as the committee for citizen involvement as described in Statewide Planning Goal 1, responsible for assisting the city council with the development of a program that promotes and enhances citizen involvement in land-use planning, assisting in the implementation of the citizen involvement program, and evaluating the process being used for citizen involvement.
 - (h)** To exercise any express or implied power, right or act pursuant to this Code or ORS Chapter 227.

(Section 2.350 amended by Ordinance No. 16666, enacted January 8, 1973; Ordinance No. 16971, enacted January 28, 1974; Ordinance No. 19197, enacted November 16, 1983, effective January 1, 1984; Ordinance No. 20309, enacted February 11, 2004, effective March 12, 2004; and Ordinance No. 20410, enacted June 9, 2008, effective July 11, 2008.)

2.355 Planning Commission - Standing Committees.

- (1)** Created. The Historic Review Board is hereby created as a standing committee of the Planning Commission.
- (2)** Membership. The committee shall have seven members, consisting of one member of the planning commission; two members, to the extent

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they are available in the community, who are an architect with preservation expertise and a historian with knowledge of local history; two professionals with demonstrable interest, competence, or knowledge of historic preservation in the disciplines of landscape architecture, real estate, construction, community development, urban planning, archeology, law, finance, cultural geography, cultural anthropology, or related disciplines; and two citizens.

- (3) Appointment and Terms of Office. Members shall be nominated by the mayor and planning commission chair and appointed by the council, except for the planning commission member who shall be appointed by the chair of the planning commission. Other members shall serve for four-year terms. A vacancy shall be filled in the same manner as original appointments and the appointee shall hold office for the remainder of the unexpired term. A member who is absent for more than three consecutively scheduled meetings without having been excused by the chair of the planning commission shall be removed and the vacancy filled.
- (4) Officers, meetings and rules of procedure. The officers of the committee shall be a chair and vice-chair, elected by majority vote of the committee. The chair shall preside at meetings of the board and shall have the right to vote. The vice-chair shall, in case of absence or disability of the chair, perform the duties of the chair. Officers shall serve for terms of one year or until their successors are regularly elected and take office. The committee shall hold meetings at such times as it deems necessary, and shall also meet upon the call of the chair. Four members of the committee shall constitute a quorum. The concurring vote of a majority of members present shall be required for approval or disapproval of any motion or other action of the committee. All meetings shall be open to the public. At public hearings, all interested parties shall be entitled to appear and address the committee. The committee may make and alter rules for its conduct and procedure, providing they are consistent with state law and applicable provisions of the city charter, ordinances and policies.
- (5) Powers and duties. The committee shall take all steps necessary to preserve historic properties pursuant to this code and shall support programs and projects which will help make the citizens of the city and its visitors aware of its origin, development and historic significance. Pursuant to chapter 9 of this code, the committee shall:

 - (a) Designate an historic landmark;
 - (b) Remove historic landmark status when any landmark has deteriorated, been altered or destroyed, and no longer meets any of the criteria in chapter 9;
 - (c) Act upon applications concerning moving or demolition of historic properties;
 - (d) Review and act upon appeals of planning director decisions for historic property alterations, including appeals initiated by the committee.

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(Section 2.355 added by Ordinance No. 19926, enacted June 28, 1993; and amended by Ordinance No. 20410, enacted June 9, 2008, effective July 11, 2008.)

- 2.360 Planning Commission - Recommendations to Private Persons or Public Authorities.** The commission may make recommendations to a person or public authority, with reference to the location of buildings, structures or works to be erected, constructed or altered by or for the person or public authority; provided, however, the recommendation shall not have the force or effect of a law or ordinance, except when prescribed by the laws of the state or by city ordinance. A person or public authority, having charge of the construction, placing or designing of buildings or other structures and improvement, or objects of art, may call upon the commission for a report.
- 2.365 Planning Commission - Authority to Receive Gifts, Etc.** The Commission may receive gifts, bequests or devises of property and shall have control and disposition over the same for its purposes as provided in this Code.
- 2.368 Police Commission.**
- (1) Created.** The police commission is hereby created to act as an advisory body to the city council, city manager, and police chief regarding police policy issues.
 - (2) Membership.** The commission shall have 12 members, consisting of two city councilors, one member who is also a member of the human rights commission, one member who is also a member of the civilian review board, and eight citizen members selected from the public so as to represent a diverse range of interests and experiences with due regard to the geographic distribution of the membership. The citizen members of the commission shall be selected from, but are not limited to, several but not necessarily all of the following groups: youths, students of the University of Oregon and Lane Community College, persons with a demonstrated interest in law enforcement, social services providers, educators, members of community or neighborhood groups, persons engaged in private business, persons with a diversity of ethnic and cultural affiliations, and persons with diverse economic backgrounds and interests.
 - (3) Appointment and Terms of Office.** Members shall be nominated by the mayor and appointed by the council. The eight citizen members shall serve for four-year terms. The councilor members shall be appointed annually as part of the process for appointing elected officials to other committees, and shall serve during their terms as councilors. The members from the human rights commission and civilian review board shall serve during their term on such commission, committee or board, or for four years, whichever is less. In any event, all members shall be limited to two consecutive terms. A vacancy shall be filled in the same manner as original appointments, and the appointee shall hold office for the remainder of the unexpired term. A member who is absent for more

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than three consecutively scheduled meetings without having been excused by the chair of the commission may be removed by the council and the vacancy filled.

(4) Powers and Duties.

- (a) In general, the police commission exists to work toward the following outcomes for the community:
 - 1. To increase communications between police and the community, leading to a greater understanding of the preferred policing alternatives for this city;
 - 2. To identify police policy and resource issues related to preferred policing alternatives;
 - 3. To decrease misunderstandings regarding the nature of adopted police policies, practices and approaches;
 - 4. To provide input on police policies and procedures that reflect community values; and
 - 5. To assist the city council in balancing community priorities and resources by advising it on police resource issues.
- (b) The police commission shall develop a mission statement and a yearly workplan, to be reviewed and approved by the city council, which will articulate how the listed outcomes will be achieved.
- (c) In seeking to accomplish its mission, the police commission may:
 - 1. Review and make recommendations on police policies, practices and priorities for consistency with community values;
 - 2. Provide input on service and resource needs for community safety;
 - 3. Work on police-related projects as directed by the council; and
 - 4. Provide a forum for addressing public concerns related to police policies and practices.
- (d) The police commission shall not undertake the review of allegations and inquiries related to the actions of individual police officers.
- (e) The police commission shall receive periodic reports from the police auditor regarding complaint trends that the auditor believes indicate a review of police practices or training methods may be warranted.
- (f) The member appointed from the civilian review board shall assist in redirecting any complaints received about employee conduct to the auditor's office and in reporting on issues raised during the course of the civilian review board's work pertinent to police policy and practices.
- (g) The member appointed from the human rights commission shall serve as a liaison to that commission in monitoring police policy issues that are or may generate community concern.

(Section 2.368 added by Ordinance No. 20136, enacted December 7, 1998, effective January 6, 1999; amended by Ordinance No. 20398, enacted October 24, 2007, effective November 23, 2007; and clerically corrected May 1, 2008.)

2.370 Hearings Official - Appointment and Duties.

- (1) Hearings officials shall be appointed by the city manager and shall hold office at the pleasure of the city manager.
- (2) It shall be the duty of a hearings official to exercise any express or implied power, right or act pursuant to this code or ORS Chapter 227, and to receive and examine available information, conduct public hearings, prepare a record thereof, and enter findings and conclusions in connection therewith.
- (3) The city manager, in consultation with the personnel director and representatives of the commissions, shall establish a job description and qualifications for hearings officials. The city manager shall appoint, as the need arises, persons who meet the qualifications, to hear particular complaints brought pursuant to section 4.645 of this code. Each commission shall notify the city manager of the need for a hearings officer to hear a complaint filed with the commission.

(Section 2.370 added by Ordinance No. 16666, enacted January 8, 1973, amended by Ordinance No. 17256, enacted February 24, 1975; Ordinance No. 17479, enacted November 24, 1975; Ordinance No. 18055, enacted September 26, 1977, Ordinance No. 18915, enacted January 27, 1982, and Ordinance No. 19197, enacted November 16, 1983, effective January 1, 1984.)

2.380 Sustainability Commission.

- (1) Created. A sustainability commission is hereby created to act as a policy advisory body to the council and city manager in the development or initiation of programs or actions that will enhance, develop and create sustainable practices within the community. The commission shall advise on policy matters related to a) sustainable practices, b) businesses that produce sustainable products and services, c) city building design and infrastructure, and d) related issues that directly affect sustainability efforts considered by the city council.
- (2) Membership. The commission shall consist of 12 citizen members and one city councilor. Members to be selected are to represent a diverse range of interests and experiences with due regard to the geographic distribution of the membership. The members of the commission shall be selected from, but are not limited to, several but not necessarily all of the following groups: youths, students of the University of Oregon and Lane Community College, persons with a demonstrated interest in sustainable business practices, building and design, energy conservation or alternative energy sources, economic development, educators, members of community or neighborhood groups, persons with a diversity of ethnic and cultural affiliations, and persons with diverse economic backgrounds and interests.
- (3) Appointment and Term of Office. Each councilor shall appoint a single member to the commission, four members shall be appointed by vote of the full council, and the mayor shall appoint the councilor member. The

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councilor member shall serve during his or her term of office, and citizen members shall serve for four-year terms, except for the first appointees, who shall serve for the following terms: four members shall serve initially for four-year terms (appointed by councilors for wards 1 through 4); four members shall serve initially for three-year terms (appointed by councilors for wards 5 through 8); and four members shall serve initially for two-year terms (appointed by full council). All members shall be limited to two consecutive terms. A vacancy shall be filled in the same manner as the original appointment, and the appointee shall hold office for the remainder of the unexpired term. A member who is absent from three consecutively scheduled meetings without having been excused by the chair of the commission may be removed by the council and the vacancy filled.

- (4) Officers, Meetings and Rules of Procedure. The officers of the commission shall be a chair and vice-chair, elected by majority vote of the commission. The chair shall preside at meetings of the commission and shall have the right to vote. The vice-chair shall, in case of absence or disability of the chair, perform the duties of the chair. Officers shall serve for terms of one year or until their successors are regularly elected and take office. The commission shall hold meetings at such times as it deems necessary, and shall also meet upon the call of the chair. The commission shall meet not less than four times each calendar year. The commission shall adopt by-laws, operating agreements, and may make and alter rules for its conduct and procedure, providing they are consistent with state law and applicable provisions of the city charter, ordinances and policies. Seven members of the commission shall constitute a quorum. The concurring vote of a majority of members present shall be required for approval or disapproval of any motion or other action of the commission. All meetings shall be open to the public. No formally constituted committee of the commission may be created unless the purpose, scope and tenure of the committee is included in the annual work plan and is approved in advance by the city council.

- (5) Powers and Duties. The commission shall:
- (a) Make recommendations to the council and city manager for programs or actions designed to implement the recommendations contained in the Sustainable Business Initiative Task Force Report as accepted by the city council on October 23, 2006;
 - (b) Create and present an annual work plan to the city council;
 - (c) Meet annually with the city council to secure approval of the work plan;
 - (d) Provide a forum for addressing public concerns related to sustainable policies and practices;
 - (e) Work on sustainability-related projects as directed by the council and city manager;

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- (f) Provide input on sustainability policies and practices that reflect community values; and
- (g) Assist the city council and city manager in balancing community priorities and resources by advising them on sustainability issues.

(Section 2.380 added by Ordinance No. 20379, enacted February 26, 2007, effective April 4, 2007.)

Municipal Officers and Departments

2.400 Council Employee Complaint Process – Purpose.

- (1) Sections 2.400 through 2.412 of this code provide a process for the review of complaints against employees hired and supervised by the city council (the city manager, municipal court judge, and police auditor).
- (2) Complaints that are subject to sections 2.400 through 2.412 of this code are those that allege one or more violations of law. Any complaints that do not allege a violation of law shall not be considered by the council as part of this process, but may be presented by the complainant to the city council at a public forum or via e-mail or letter, or directly to the complainant's city councilor.

(Section 2.400 added by Ordinance No. 20422, enacted September 22, 2008, effective October 25, 2008.)

2.402 Council Employee Complaint Process - Scope. Complaints subject to sections 2.400 through 2.412 of this code are those that allege that a council employee has violated federal, state or local law, whether criminal or civil. Except for good cause shown, a complaint subject to sections 2.400 through 2.412 of this code must be filed within six months of the incident giving rise to the complaint.

(Section 2.402 added by Ordinance No. 20422, enacted September 22, 2008, effective October 25, 2008.)

2.404 Council Employee Complaint Process – Filing of Complaint.

- (1) A complaint shall be made in writing on a form provided by the city and shall be signed by the complainant. Anonymous complaints shall not be accepted.
- (2) A complainant may request that his or her name be kept confidential. If such a request is made, the name shall not be released to anyone except:
 - (a) To a city councilor upon the councilor's request. The councilor shall maintain the confidentiality of the complainant's name;
 - (b) To the city council if requested by the council. The council shall maintain the confidentiality of the complainant's name;
 - (c) To another individual if approved by the council. The individual shall maintain the confidentiality of the complainant's name; or

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- (d) If required by the Oregon Public Records Law (ORS 192.410 through ORS 192.505).
- (3) The complaint shall state the complainant's reason for believing that a violation occurred and include any evidence available to the complainant related to the alleged violation. Unless adequate substantiation is included, the complaint shall be returned and the complainant informed that he or she can resubmit the complaint with adequate substantiation. "Adequate substantiation" means evidence that would cause a reasonable person to conclude that a violation occurred.
- (4) Complaints shall be filed with the city attorney's office, or with the city recorder's office, which shall be forwarded immediately to the city attorney's office.
- (5) Within 24 hours of the receipt of a complaint, the city attorney's office shall provide a copy of the complaint to each city councilor and the mayor. In addition, upon receipt of a complaint, the city attorney's office shall attempt to immediately contact by telephone each elected official to alert them that a complaint has been filed.
- (6) Immediately after the council has been informed that a complaint has been filed and has been provided with a copy of the complaint, the city attorney's office shall provide a copy of the complaint to the council employee who is the subject of the complaint and request the employee to provide a written response to the complaint. Once the response is received from the employee, the city attorney shall forward a copy of the response to the council.
- (7) If the complainant requests that his or her name be kept confidential, the city attorney's office shall redact the complainant's name from the complaint form and other investigative material before providing copies to the council and council employee. In instances where the identity of the complainant has been requested by a councilor or the council, that information shall be provided separately.

(Section 2.404 added by Ordinance No. 20422, enacted September 22, 2008, effective October 25, 2008.)

2.406 Council Employee - Complaint Process – Initial Determination.

- (1) The city attorney shall make an initial determination whether:
- (a) A complaint falls within the scope of section 2.402 of this code; and
- (b) The allegations contained in the complaint are supported by adequate substantiation.
- The city attorney shall notify the council of those conclusions.
- (2) Unless three or more members of the council notify the council within seven days that the councilors disagree with one or both of the city attorney's conclusions, the city attorney shall take one of the following actions:
- (a) If the city attorney concludes that the complaint is within the scope of section 2.402 of this code and the complaint form included

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adequate substantiation, the Preliminary Review pursuant to section 2.408 of this code shall be added to the council agenda as soon as practicable;

- (b) If the city attorney concludes that the complaint falls outside the scope of section 2.402 of this code, the city attorney shall inform the complainant that the complaint is not within the scope of the complaint process; or
 - (c) If the city attorney concludes that the complaint is within the scope of section 2.402 of this code but that the complaint form lacks adequate substantiation, the city attorney shall return the complaint form to the complainant with a request that the complainant provide additional substantiation and resubmit the form.
- (3)** If three or more councilors notify the council within the seven day period that they disagree with one or both of the city attorney's conclusions, the council shall meet as soon as practicable to discuss whether to seek a second legal opinion.
- (a) If the council decides not to obtain a second opinion, then based on the city attorney's initial determination, either:
 - 1. The city attorney shall inform the complainant that the complaint is not within the scope of section 2.402 of this code and/or that the form lacked adequate substantiation, whichever is applicable, or
 - 2. The Preliminary Review shall be added to the council agenda as soon as practicable.
 - (b) If the council decides to obtain the second legal opinion, the council shall select an attorney whose office is located outside of Lane County, who has not been employed by or had family members employed by the city of Eugene, and who has experience providing legal counsel to one or more governmental entities in Oregon. If an attorney has undertaken any work on the city's behalf (for example, conflict counsel), the council shall be informed of that information before the council selects an attorney for the second opinion.
 - 1. If the second opinion concludes that the complaint falls outside the scope of section 2.402 of this code and/or that the complaint form lacked adequate substantiation, the city attorney shall inform the complainant.
 - 2. If the second opinion concludes that the complaint is within the scope of section 2.402 of this code and that the form contains adequate substantiation, the Preliminary Review shall be added to the council agenda as soon as practicable.

(Section 2.406 added by Ordinance No. 20422, enacted September 22, 2008, effective October 25, 2008.)

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2.408 Council Employee Complaint Process – Preliminary Review.

- (1) If it is determined that the complaint falls within the scope of section 2.402 of this code and that the complaint contains adequate substantiation, the council shall meet to consider whether the council should place the employee on administrative leave with pay pending resolution of the complaint.
- (2) In addition:
 - (a) If the complaint alleges one or more violations of criminal statutes, the city attorney shall refer such allegations to the district attorney. Following completion of the district attorney's investigation, the council shall determine the next steps.
 - (b) If the complaint alleges one or more violations of ORS chapter 244, the city attorney shall refer such allegations to the Oregon Government Ethics Commission (OGEC) for review and investigation. Following completion of the OGEC's investigation, the council shall determine the next steps.
 - (c) For any alleged violations not referred to the district attorney or the OGEC, the council shall determine whether additional information is needed to act on the complaint. If the council determines that additional information is needed, then the council shall proceed to the Full Investigation pursuant to section 2.410 of this code. Otherwise, the council shall determine whether the complaint is sustained and if so, whether the complaint merits imposition of any discipline.
 - (d) If the complaint includes multiple types of allegations (for example, a criminal violation and a violation of city code), any alleged violations of criminal laws shall be referred to the district attorney, any alleged violations of ORS chapter 244 shall be referred to the OGEC, and any alleged violations of federal laws, other state civil laws or the city code shall be considered by the council.

(Section 2.408 added by Ordinance No. 20422, enacted September 22, 2008, effective October 25, 2008.)

2.410 Council Employee Complaint Process – Full Investigation.

- (1) If the council chooses to proceed to a Full Investigation, the council shall choose an outside investigator to perform the investigation. The investigator shall be someone whose office is located outside Lane County, who has not been employed by or had family members employed by the city of Eugene, and who:
 - (a) Has sufficient knowledge and expertise to conduct the particular investigation;
 - (b) Will be fair and impartial; and
 - (c) Can complete the investigation in a timely fashion.
- (2) Following completion of the investigation, the outside investigator shall provide a report of the investigation to the council.

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- (3) After reviewing the report from the investigator, the council shall determine whether the complaint is sustained and, if so, whether the complaint merits imposition of any discipline.

(Section 2.410 added by Ordinance No. 20422, enacted September 22, 2008, effective October 25, 2008.)

2.412 Council Employee Complaint Process – Meetings of City Council to Discuss Complaint.

- (1) To the extent authorized by the Oregon Public Meetings law, the council shall meet in executive session to consider the complaint unless the council employee that is the subject of the complaint requests that the meeting be held in open session.
- (2) The council's final resolution of the complaint shall be made in open session.

(Section 2.412 added by Ordinance No. 20422, enacted September 22, 2008, effective October 25, 2008.)

2.415 Airport - Definition. Whenever the word "airport" is used in sections 2.415 to 2.445, it shall mean the Mahlon Sweet Airport, located northwest of the city and all additions thereto.

(Section 2.415 amended by Ordinance No. 19496, enacted September 9, 1987.)

2.420 Airport - Governmental Regulations. All rules, regulations, fees, taxes, etc., provided by the code shall be subordinate to any applicable governmental regulations that are now or shall be put into effect by the Federal Aviation Administration or any other governmental agency with jurisdiction.

(Section 2.420 amended by Ordinance No. 19496, enacted September 9, 1987.)

2.425 Airport - Compliance With Regulations. No person shall disobey the following provisions or any other regulation, posted notice or traffic control device promulgated by the council, city manager, or airport manager, or the instruction of a police officer while at the airport.

2.430 Airport - Rules and Regulations.

- (1) The city manager shall adopt and cause to be made and posted at the airport and at the office of the city recorder certain rules and regulations governing the use of the field and terminal. These rules and regulations shall be administered by the city manager, who shall have authority to enforce the rules. As used herein and in sections 2.440, 2.441 and 2.442, "city manager" means the city manager or the manager's designee.
- (2) The city manager is authorized to establish or alter, and shall give notice by signs, areas where pedestrians, motor vehicles, aircraft, or other users of the airport shall be prohibited.
- (3) Permanent, temporary, and emergency rulemaking under this section shall be conducted in accordance with the procedures set forth in

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section 2.019. Unless reviewed by the council, the order adopting the rule is final on the eleventh day after it is rendered.

- (4) At the request of two councilors, made within ten days of the city manager's adoption of a rule, the rule, or any part thereof, shall be reviewed by the council. On the basis of the administrative record before the city manager the council shall approve, modify or disallow the proposed rule by order. The order shall be mailed to all interested persons. The order is final on the date rendered.

(Section 2.430 amended by Ordinance No. 19496, enacted September 9, 1987; administratively amended by Ordinance No. 19742, enacted January 14, 1991; amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

- 2.435 Airport - Traffic Regulations.** The city manager or the manager's designate shall supplement the vehicle traffic and parking regulations of Chapter 5 and establish, maintain, remove, or alter traffic control devices for the airport.

(Section 2.435 administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

- 2.440 Airport Fees and Charges - Procedures Generally.**

- (1) The procedures of this section and sections 2.441 and 2.442 apply to the establishment of all fees and charges for the use of Mahlon Sweet Airport except for those fee, charges or rents:
- (a) Provided for by lease, contract, or permit with the City of Eugene; or
 - (b) Established by public bidding processes, requests for proposals or other competitive processes; or
 - (c) Set by operation of federal or state law or by other provisions of this code.
- (2) Prior to the establishment of any airport fee or charge, the city manager shall investigate the amount charged for such right or use in the past, any comparable rates charged by other airports, applicable user fee policies set by the council, and the revenue needs of the airport.

(Section 2.440 amended by Ordinance No. 16700, enacted January 22, 1973; Ordinance No. 18685, enacted July 28, 1980, and Ordinance No. 19496, enacted September 9, 1987.)

- 2.441 Airport Fees and Charges - Ratemaking Procedure.**

- (1) Notice. Prior to the imposition of any fee, charge or rental or the use of the airport, the city manager shall give notice of the proposed rate or amount of such charge by:
- (a) Making copies of the notice of intended charges available to any person who has requested such notice and to persons currently paying such charges;
 - (b) Publishing the notice of intended charges in a newspaper of general circulation within the city; and
 - (c) Posting such notice at two locations at the airport.
- (2) Contents of notice. The notice of intended charges shall state the current and proposed charge, fee or rent, the results of the city manager's investigation, proposed findings on the applicability of the standards set out in section 2.442, and the time, place and manner in which interested persons may present their views on the intended action.

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- (3) Opportunity for comment. The city manager shall give interested persons reasonable opportunity to submit data or views in writing. At the request of ten persons or of a person potentially obligated to pay more than \$500.00 per year by the imposition of the proposed charge, the city manager shall conduct a public hearing on the proposed charge. The city manager may delegate to a hearings officer the conducting of a public hearing.
- (4) Decision. The city manager, on the basis of the manager's investigation and the comments of interested persons, shall approve, modify or disallow the proposed charge by order. The order shall contain written findings and conclusions based on the standards set forth in section 2.442. The city manager shall mail copies of the decision to all interested persons, i.e., persons who have submitted written or oral comments on the charge or who have requested a copy of the decision. The city manager shall also promptly deliver copies of the decision to the mayor and city councilors. Unless reviewed by the council, the decision is final on the eleventh day after it is rendered.
- (5) Review of decision. At the request of two councilors, made within ten days of the city manager's decision, the decision, or any part thereof, shall be reviewed by the council. On the basis of the administrative record before the city manager, the council shall approve, modify or disallow the proposed charge by order. The order shall contain written findings and conclusions based on the standards set forth in section 2.442, and shall be mailed to all interested persons. The order is final on the date rendered.

(Section 2.441 added by Ordinance No. 16700, enacted January 22, 1973; amended by Ordinance No. 19496, enacted September 9, 1987; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

2.442 Airport Fees and Charges - Standards.

- (1) Unless the city manager or council, as apposite, determines in writing that consideration of one or more of the following factors is irrelevant or inapplicable, in determining the amount or rate of any charge, fee or rent imposed for the use of Mahlon Sweet Airport, the city manager or council shall consider the following:
 - (a) The amount charged for such use in the past;
 - (b) Comparable amounts or rates, if any, charged by other airports;
 - (c) The amounts or rates and other municipal benefits agreed to by comparable users of the airport in a contract, lease, or permit; and,
 - (d) The revenue needs of the airport.
- (2) If the city manager determines that one or more of the factors listed in subsection (1) of this section is irrelevant or inapplicable, the city manager shall notify the mayor and council of that determination.

(Section 2.442 added by Ordinance No. 18685, enacted July 28, 1980; amended by Ordinance No. 19496, enacted September 9, 1987; and amended by Ordinance No. 20386, enacted May 29, 2007, effective June 30, 2007.)

2.445 Airport - Additional Police Authority. The caretaker of the airport is appointed as an ex officio police officer to exercise police authority while at the airport.

2.450 Office of Police Auditor – Established.

- (1) The office of the police auditor, hereafter auditor's office, is hereby established to provide an independent location to lodge complaints involving police

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employees, monitor internal investigations to ensure objective, thorough and high quality investigations, and develop recommendations to improve police services.

- (2) The auditor's office shall be headed by a full-time professional police auditor who is hired by and accountable to the city council. The city council shall hire, supervise, and specify the salary of the independent police auditor, who shall serve at the pleasure of the city council. All city council decisions regarding the auditor will be made by a simple majority vote of the city council.
- (3) The independent police auditor shall have exclusive authority to hire, supervise, and to make all other employment decisions regarding the auditor's support staff. No change relating to the authority to hire and supervise the auditor's staff shall be made without formal action of the city council.
- (4) Any findings, recommendations and actions taken shall reflect the police auditor's independent judgment. No person shall use his/her political or administrative position to attempt to unduly influence or undermine the independence of the police auditor, or his/her staff or agent, in the performance of his/her duties and responsibilities.
- (5) The city manager shall include in his/her recommended budget an allocation sufficient for the auditor and the auditor's office to carry out their duties and responsibilities under the Eugene Charter of 2002 and the Eugene Code, including sufficient funds to contract for external investigations.
- (6) The physical location of the auditor's office shall be separate from the police department, but in close proximity so as to facilitate a close working relationship with others involved in the complaint investigation process, and easily accessible to the public. The auditor shall have complete, unrestricted and direct access to the internal affairs area during office hours.
- (7) It is intended that sections 2.450 through 2.456 and 2.240 through 2.246 will provide a system of independent oversight of the police complaint process and implement section 15-A of the Eugene Charter of 2002 as adopted by the city electorate on November 8, 2005.

(Section 2.450 added by Ordinance No. 20374, enacted December 13, 2006, effective January 12, 2007; and amended by Ordinance No. 20435, enacted August 10, 2009, effective September 11, 2009.)

2.452 **Office of Police Auditor – Definitions.** Words and phrases used in sections 2.240 through 2.246 and 2.450 through 2.456 have the following meanings:

Chief of police. The person designated by the city manager as the chief of police.

Community impact case. A complaint involving sworn police officer(s) that alleges excessive force, bias, disparate treatment or violation of constitutional rights, which the police auditor determines should be reviewed by the civilian review board in accordance with section 2.244(3) and 2.244(4) of this code.

Complaint. An expression of dissatisfaction, allegation of misconduct, or question about a police employee's conduct, police services provided or not provided, or police department policies or practices in general.

Conclusion of any criminal investigation or conclusion of any such criminal investigation. A criminal investigation is deemed concluded when the appropriate criminal prosecutor decides either to press charges or to not press charges.

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Critical incident. An occurrence involving a significant police action including, but not limited to, a civil disturbance or riot, an officer-involved shooting, or other action by a sworn police officer resulting in serious physical injury or death.

Facilitated conversation. A discussion guided by a third party, trained facilitator, between the complainant and a department representative, most often the named employee's supervisor or internal affairs staff.

Immediate family member. A person's spouse or domestic partner, a parent, step-parent, grandparent, child, stepchild, grandchild, sibling, half-sibling or step-sibling of the person or of the person's spouse or domestic partner.

Internal affairs. The police employees designated by the chief of police to investigate allegations of misconduct against police employees.

Mediation. A voluntary, confidential complaint resolution option that is an alternative to the investigation, adjudication and disciplinary process. It is a structured process guided by a neutral, third-party, professionally-trained mediator enabling direct communication between the complainant and employee.

Police auditor or auditor. Police auditor or designee if authorized by the auditor to undertake a certain function.

Police employee. A city employee who reports directly or through others to the chief of police.

Preliminary investigation. As used in section 2.456(1)(c), an initial inquiry by the police auditor or the auditor's designee into the facts and circumstances of a complaint for purposes of deciding how to classify and route the complaint.

Service complaint. A complaint about police employee performance or demeanor, customer service and/or level of police service.

Substantial evidence. Evidence that, considering the record as a whole, a reasonable person would rely upon to conclude that something is true. For purposes of section 2.244(4), an adjudication is supported by substantial evidence when the civilian review board reasonably could reach the same finding after considering all the evidence in the record, whether or not the board actually agrees with the adjudication.

Sworn police officer. A police employee who is also certified and employed as a peace officer under the laws of this state.

(Section 2.452 added by Ordinance No. 20374, enacted December 13, 2006, effective January 12, 2007; and amended by Ordinance No. 20435, enacted August 10, 2009, effective September 11, 2009.)

2.454 Office of Police Auditor – Powers and Duties.

(1) The police auditor is the administrative head of the auditor's office and shall:

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- (a) Oversee the operations of the auditor's office, establish program priorities and objectives, and manage the implementation and evaluation of work programs;
 - (b) Develop and maintain operating procedures for the auditor's office, including protocols for handling complaints and monitoring investigations;
 - (c) Establish standards of professional conduct and provide necessary training for staff in the auditor's office.
 - (d) Act as liaison and provide staff support to the civilian review board. In collaboration with the civilian review board, the police auditor shall:
 - 1. Establish and maintain policies, procedures and operating principles for the civilian review board's functions; and
 - 2. Conduct education and outreach activities to inform the community about the process for filing complaints and commendations about police employees, and develop and disseminate information and forms regarding the police complaint handling and review system.
 - (e) Receive and process complaints concerning police employees; monitor the complaint investigation and review process as set forth in sections 2.456(1) and (2); and review a selection of service complaints.
 - (f) Perform a quality assurance function with the goal of identifying systemic changes that will improve police services to the community. These activities include:
 - 1. Analyzing complaint trends and recommending changes to police policy, practices and training;
 - 2. Reviewing risk and tort claims and developing recommendations to reduce risk and liability;
 - 3. Reviewing and reporting trends in completed police employee disciplinary decisions.
 - (g) Provide status reports to the civilian review board and city council and provide recommendations relevant to police policies and practices to the police commission.
 - (h) Develop and present to the civilian review board and city council annual public reports describing the activities of the auditor's office, its findings and recommendations, the police department's response to its recommendations, and any other information pertinent to assessing the performance of the auditor's office.
 - (i) Provide the city council with any other reports deemed necessary or requested by the city council. All public reports shall strive to protect the privacy of all individuals and shall not contain the names of parties to a complaint (employees, complainants and/or witnesses) not previously disclosed.
 - (j) Determine whether applicants for the civilian review board meet the requisite qualifications in section 2.242(1)(a)1. and 2.242(1)(d).
- (2)** The police auditor shall receive timely notification of critical incidents to enable him/her, or a qualified designee, to report to the scene of critical incidents. The police auditor and chief of police shall develop necessary protocols for summoning the police auditor to the incident for purposes of first-hand observation.
- (3)** The police auditor shall participate in use of force review boards.

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- (4) All case adjudication and employee discipline decisions shall be made by the chief of police. The police auditor may develop adjudication recommendations, but is not authorized to recommend the level of discipline for police employees.
- (5) For purposes of this subsection, an “allegation” is a report or claim that the chief of police has committed a crime, violated any provision of sections 2.240 to 2.246 or 2.450 to 2.456, violated a person’s civil rights, or failed to perform non-administrative duties in accordance with professional law enforcement standards applicable to Eugene’s sworn officers.
 - (a) If the auditor receives an allegation against the chief of police, the auditor shall forward a copy of the allegation to the city manager. The city manager shall notify the council, and investigate the allegation. The manager shall keep the auditor informed of the progress of the investigation.
 - (b) Upon completion of the investigation, but prior to the finalization of the investigation report, the city manager shall provide the auditor with a draft of the report. The auditor shall review the draft report and provide comments about the draft to the manager within seven days of receiving the draft. The manager shall consider any comments received from the auditor and finalize the report within seven days. Once the city manager issues a decision on the allegation, the manager shall inform the council of the manager’s decision related to the allegation.

(Section 2.454 added by Ordinance No. 20374, enacted December 13, 2006, effective January 12, 2007; and amended by Ordinance No. 20435, enacted August 10, 2009, effective September 11, 2009.)

2.456 Office of Police Auditor – Complaint Processing.

- (1) Complaint intake.
 - (a) Any person may lodge a complaint or commendation with the auditor’s office about the conduct of, or services provided by, a city police employee;
 - (b) The auditor’s office is the intake center for all community complaints about police employees. City employees may choose to lodge complaints against another employee through either internal affairs or the auditor’s office. The auditor’s office shall document all contacts and complaints received from any source. The auditor’s office may refer a complainant to another department in the city or another agency that would be more appropriate to address the complaint.
 - (c) If the city receives a claim for damages that alleges that a police employee caused the damage, a copy of the claim shall be forwarded to the auditor’s office for a determination as to whether the claim should also be classified and processed as a complaint.
 - (d) The auditor’s office conducts the preliminary investigation of all complaints lodged with the auditor’s office or internal affairs to appropriately classify and route the complaint and any accompanying information accordingly. The auditor has exclusive authority to classify, route and reclassify complaints. The auditor may reclassify a complaint if, upon further investigation and receipt of additional information that was not available at the time of intake, but before the completion of the investigation, the auditor finds reclassification is warranted.

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- (e) If a complaint is received that alleges criminal conduct on the part of the employee, the police auditor shall forward the complaint and any associated information to the chief of police.
 - (f) The auditor's office may determine whether a complaint is appropriate for mediation or facilitated conversation, and upon the voluntary agreement of the involved parties and approval of the chief of police, shall coordinate the resolution of such cases.
 - 1. Mediation is an alternative to the investigation, adjudication and disciplinary process; if the parties agree to mediation, the investigation, adjudication and disciplinary process will end.
 - 2. A facilitated conversation may, but does not necessarily, result in termination of the investigation, adjudication and disciplinary process.
 - (g) The auditor's office classifies complaints that will be treated as community impact cases and provides support to the civilian review board in its review of those cases and other cases accepted by the civilian review board.
 - (h) The auditor's office shall provide timely updates on the status of a complaint and notification to the complainant of its final disposition.
 - (i) The auditor's office may dismiss a complaint if upon review, it meets criteria that the auditor has established for such action, including reporting delays and/or insufficient information from which to take further action.
 - (j) The auditor may review and process a complaint not filed directly with the auditor's office if the auditor determines that concerns have been expressed about conduct of a police employee(s).
 - (k) Except for good cause, complaints of minor misconduct involving courtesy, communications, and minor rules violations that might be handled as service complaints shall be filed within 60 days of the incident.
 - (l) Except for good cause, complaints of serious misconduct including, for example, excessive force that causes substantial physical injury, egregious acts of disparate treatment, or major rules violations shall be filed within 6 months of the incident.
- (2) Complaint Investigations.
- (a) Except as provided in paragraph (b) of this subsection, administrative investigations of complaints shall not commence until after the auditor has received, classified and routed the complaint. The investigation shall commence upon classification or as soon as possible after classification.
 - (b) Paragraph (a) of this subsection shall not preclude preliminary investigations by the auditor's office, or a police supervisor's attempt to address a service complaint, provided that the supervisor prepares and forwards to the auditor within 24 hours a report identifying the complainant and contact information for the complainant, and explaining the nature of the service complaint and the outcome of the supervisor's conversation with the complainant.
 - (c) If the chief of police determines that all or a part of an administrative investigation should be postponed in order to avoid jeopardizing a criminal investigation or prosecution, the chief of police shall request the auditor's agreement on postponement. If the auditor and chief of police

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are unable to agree on the postponement, then they shall present in writing their respective positions to the municipal court judge, who shall then decide whether all or part of an administrative investigation will be postponed.

- (d) The police auditor shall actively monitor internal investigations to ensure a thorough, objective, and timely investigation, and is authorized to:
 - 1. Participate in complainant, employee and witness interviews;
 - 2. Require the city to undertake additional investigation.
 - (e) The police auditor may require, and is authorized to contract for, an external investigation when the police auditor determines that an external investigation is appropriate.
 - (f) The police auditor will not be directly involved in any criminal investigations, but shall be kept apprised of the status of such investigations involving police employees. The police auditor shall have access to the case file relevant to the administrative portion of such investigations.
 - (g) All case files shall be provided to the police auditor upon conclusion of the investigation for review and a determination that the investigation was thorough and complete. Once the investigation is deemed complete, the involved employee's immediate supervisor will confer with the police auditor and develop a case adjudication recommendation that will be forwarded through the chain of command to the chief of police for final adjudication. If the police auditor disagrees with the supervisor's recommendation, his/her disagreements and comments will be documented and forwarded to the chief of police as well. The immediate supervisor and police auditor will use their best efforts to complete this process in a timely manner and without unreasonably delaying the final adjudication of the case. If the investigation reveals evidence of criminal conduct not previously known, the auditor may refer the matter to the appropriate criminal prosecutor for his/her consideration.
 - (h) The auditor's office will make every reasonable effort to notify the complainant that an investigation has been conducted, summarize the case findings, and provide an opportunity for the complainant to comment or ask questions about the process.
 - (i) The auditor's office shall return all case file materials to internal affairs for retention, but shall have subsequent access to closed cases.
 - (j) The police auditor shall maintain an on-going status report on the work of the auditor's office and case investigations and shall share it with the civilian review board.
- (3) Access to Records and Materials.
- (a) Except to the extent that a specified state or federal law provides to the contrary, or where information resides on a restricted database governed by a contract that does not allow access beyond certain law enforcement employees:
 - 1. The auditor shall have complete and unrestricted access to all complaints, investigative records and information obtained or developed by the internal affairs investigator related to an administrative investigation of a complaint, whether the information exists in electronic format or hard copy, including information stored on an internal affairs database;

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2. The auditor shall be provided any other information identified by the auditor that is relevant to a complaint; and
 3. The identity of any individual involved in an event giving rise to a complaint shall not be withheld from the auditor.
- (b) When legally required or requested by the chief of police, the auditor shall keep confidential the name of any such individual involved in a complaint and other information leading to the name of the individual.
 - (c) Except as provided in section 2.456(2)(f), the police auditor shall not have access to a criminal investigation file until the conclusion of any such criminal investigation.
 - (d) The police auditor shall supervise the development and implementation of a case management system to track all complaints received in coordination with the internal affairs unit, report case statistics and trends, and provide performance indicators to evaluate the effectiveness of the auditor's office.
 - (e) The chief of police and police auditor shall develop cooperative interdepartmental procedures and any necessary infrastructure to coordinate the flow of information and communication between the auditor's office and the police department.

(Section 2.456 added by Ordinance No. 20374, enacted December 13, 2006, effective January 12, 2007; and amended by Ordinance No. 20435, enacted August 10, 2009, effective September 11, 2009.)

2.470 City Attorney - Appointment and Duties.

- (1) The city attorney shall be appointed by the city manager and shall hold the office at the pleasure of the city manager.
- (2) It shall be the duty of the city attorney to attend the meetings of the council, and to advise the council, or any committee of the council, or any city official on any legal question that may involve the interest of the city. It shall also be the duty of the city attorney to represent the city in all actions, suits or proceedings in which the city is legally interested. The city attorney shall prepare all contracts, ordinances, bonds or other legal instruments in which the city is a party, and shall give advice and opinion in writing concerning any matter in which the city is interested when required by the city manager, the council or any committee of the council.

(Section 2.470 administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

2.480 Public Official Code of Ethics - Definitions. Words and phrases used in sections 2.482 to 2.488 of this code, shall have the meaning ascribed to them in ORS 244.020, except that the following words and phrases are defined as follows:

Business associate. For purposes of section 14(3) of the Eugene Charter of 2002, Abusiness associate@ shall have the same meaning as Abusiness with which the person is associated@ as defined by ORS 244.020(3).

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Domestic partner. For purposes of Section 14(3) of the Eugene Charter of 2002, Adomestic partner@ means the other member of a domestic partnership registered with the city under section 2.820 of this code, or the partner of an elected official where the elected official or partner has publicly stated that they are a couple.

Elected official. The mayor or a city councilor.

Executive manager. The head or director of a city department and the assistant city manager.

Public official. An elected official, budget committee member, planning commission member, human rights commission member, police commission member, city manager, executive manager, or municipal court judge.

(Section 2.480 added by Ordinance No. 20300, enacted October 27, 2003, effective November 26, 2003.)

2.482 Public Official Code of Ethics - Prohibited Actions. A public official is prohibited from engaging in any act contained in ORS 244.040.

(Section 2.482 added by Ordinance No. 20300, enacted October 27, 2003, effective November 26, 2003.)

2.484 Public Official Code of Ethics - Methods of Handling Conflicts of Interest. The provisions set forth at ORS 244.120, except for ORS 244.120(1)(a) and 244.120(2)(b)(B), are hereby incorporated into this code as the methods public officials shall use when met with an actual or potential conflict of interest. A public official with an actual conflict of interest shall not discuss, debate or vote as a public official on the matter in which the public official has an actual conflict of interest.

(Section 2.484 added by Ordinance No. 20300, enacted October 27, 2003, effective November 26, 2003.)

2.486 Public Official Code of Ethics - Complaint Process.

(1) Complaints Against Executive Manager. When a written complaint is made against an executive manager alleging a violation of section 2.482 or 2.484 of this code, and the complainant has affirmed the truthfulness of the allegation(s), the complaint shall be reviewed and investigated by the city attorney. The city attorney shall make an initial determination as to the merits of the complaint.

(a) If the city attorney finds that the complaint is without merit, the city attorney shall notify the city manager in writing of the allegation and the finding. The city manager shall direct the city attorney to investigate the matter further or direct the city attorney to dismiss the matter.

(b) If the city attorney finds that the complaint has merit, the city attorney shall provide an investigative report to the city manager

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who shall handle the situation in the same manner as other city employee matters.

- (2) Complaints Against Elected or Council Appointed Committee or Commission Member. When a written complaint is made against an elected official, or a committee or commission member appointed by the council alleging a violation of section 2.482 or 2.484 of this code, and the complainant has affirmed the truthfulness of the allegation(s), the complaint shall be reviewed and investigated by the city attorney. The city attorney shall make an initial determination as to the merits of the complaint.

- (a) If the city attorney finds that the complaint is without merit, the city attorney shall notify the city council in writing of the allegation and the finding. Unless the city council directs the city attorney to investigate the matter further, the city attorney will dismiss the matter.
- (b) If the city attorney finds that the complaint has merit, the city attorney shall prepare an investigative report and forward the report to the Oregon Government Ethics Commission. A copy of the city attorney=s report also shall be forwarded to the city council.

(Section 2.486 added by Ordinance No. 20300, enacted October 27, 2003, effective November 26, 2003; and amended by Ordinance No. 20422, enacted September 22, 2008, effective October 25, 2008.)

2.488 Public Official Code of Ethics - Intentional Violation by Elected Official.

If the city attorney prepares an investigative report on a complaint against an elected official alleging an intentional violation of section 2.482 or 2.484 of this code for the purposes of obtaining or maintaining a personal financial benefit or to avoid a financial detriment, the city attorney will forward a copy of the investigative report to the city council. Upon receipt of the city attorney=s investigative report, the city council shall determine whether the violation was intentional. Such a determination shall require six affirmative votes. The city council may remove an elected official from his or her position if the council determines that the elected official committed the violation intentionally and for the purpose of obtaining or maintaining a personal financial benefit for, or avoiding a financial detriment to, any of the persons listed in subsection (3) of section 14 of the Eugene Charter of 2002.

(Section 2.488 added by Ordinance No. 20300, enacted October 27, 2003, effective November 26, 2003.)

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2.500 Finance Officer and City Recorder - Defined. As used in this code "finance officer" and "city recorder" shall mean the person(s) appointed by the city manager to perform the functions and duties of city recorder and city treasurer.

(Section 2.500 amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

2.505 Finance Officer - Oath; Bond. Before entering upon the duties of office, the finance officer shall file in the office of the city manager his or her official oath and also a bond to the city in a sum as the council may require with two or more sureties approved by the city manager, or a bond executed by a surety company duly authorized under the laws of the state, conditioned that the finance officer will faithfully discharge the duties as finance officer and account for and pay over to the person or officer entitled thereto, all money which comes into the hands of the finance officer at the time or times required by the charter or ordinances of the city, and turn over to the successor all books, papers or property belonging to the city that may come into the finance officer's hands by virtue of the office.

(Section 2.505 amended by Ordinance No. 19883, enacted October 26, 1992, effective November 25, 1992; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

2.510 City Recorder - Attend Council Meetings. It shall be the duty of the city recorder, or the recorder's designee, to attend the meetings of the council and to keep an accurate record of the proceedings in accordance with the provisions of section 2.007(7) of this Code. The city recorder shall retain and hold all ordinances passed by the council.

(Section No. 2.510 amended by Ordinance No. 18904, enacted December 16, 1981; Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

2.515 Finance Officer - Records and Reports.

- (1)** The finance officer shall keep a permanent record, in accordance with generally accepted accounting principles, of all financial transactions of the city.
- (2)** The finance officer shall receive, receipt, and safely keep all money belonging to the city and select the depositories for city money and securities. The finance officer shall keep a separate set of accounts for each fund and make no disbursement from any fund other than the fund from which the disbursement is authorized.
- (3)** The finance officer may make monthly reports and shall make quarterly reports of revenues and expenditures for the quarters ending the last day of September, December, March, and June in each year, within 15 days after expiration of the quarters, respectively, and shall, at the expiration of each fiscal year, make a full report of the financial

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operations and the financial condition of the city.

(Section 2.515 amended by Ordinance No. 18067, enacted October 12, 1977; Ordinance No. 19883, enacted October 26, 1992, effective November 25, 1992; administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998; and amended by Ordinance No. 20333, enacted January 12, 2005, effective February 11, 2005.)

2.520 City Recorder - Custodian of Corporate Seals and Documents. The city recorder shall be custodian of the corporate seal of the city and may affix the same to appropriate documents issued by the recorder. The city recorder shall also keep and file in the recorder's office, under appropriate heads, all documents belonging to the city.

(Section 2.520 amended by Ordinance No. 19883, enacted October 26, 1992, effective November 25, 1992; Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

2.525 Finance Officer – Expenditure Authorization.

- (1)** Provided that expenditures do not exceed the adopted appropriation and are for purposes approved in the adopted budget, the finance officer may issue checks drawn on city bank accounts, and cause electronic or other types of payments or transfers to be made in order to pay city bills and claims, including salaries of all regular officers and employees of the city. All checks, electronic or other types of payments or transfers shall be signed or authorized by the city manager or the city manager's designee.
- (2)** The provisions of this section, and the provisions of section 2.527 do not apply to funds deposited in or disbursed from the risk management fund, which are governed solely by the provisions of section 2.585.

(Section 2.525 amended by Ordinance No. 16270, enacted July 12, 1971, Ordinance No. 17456, enacted September 22, 1975, Ordinance No. 18067, enacted October 12, 1977, Ordinance No. 18329, enacted February 7, 1979, Ordinance No. 18854, enacted August 17, 1981, Ordinance No. 18954, enacted April 21, 1982; Ordinance No. 19011, enacted August 11, 1982; Ordinance No. 20333, enacted January 12, 2005, effective February 11, 2005.)

2.527 Finance Officer - Official Register of Approved Claims.

- (1)** The finance officer shall maintain an official register of all approved bills and claims. The register shall designate the check number, date of issue, payee, and amount of each check.
- (2)** The register shall be presented to the council upon the council's request.

(Section 2.527 added by Ordinance No. 16270, enacted July 12, 1971; amended by Ordinance No. 18067, enacted October 12, 1977; Ordinance No. 19011, enacted August 11, 1982.)

2.530 Finance Officer - Investments. The finance officer may invest surplus money of the city in securities specified in ORS 294.035 through 294.046 and with the local government investment pool under ORS 294.805 through 294.895.

(Section 2.530 added by Ordinance No. 18067, enacted October 12, 1977.)

2.540 Finance Officer - Docket of City Liens.

- (1) The finance officer shall maintain a docket of city liens recording all special assessments, taxes, and other charges that, under this Code or State law, are liens upon property.
- (2) The docket shall specify for each lien
 - (a) Its date of inception,
 - (b) Its amount,
 - (c) The obligation for which the lien has been impressed,
 - (d) The property subject to the lien, and
 - (e) The name of the owner of the property or a statement that the name of the owner is unknown. (Failure so to specify that name, or specification of a name other than that of the owner, does not affect the validity of the obligation that is the basis for the lien, or the validity of the lien itself.)
- (3) Payments of lien-related installments, interest, and costs shall be entered in the docket as the payments are received, together with the dates of the payments. The finance officer shall, upon request, issue the payers receipts that specify separately the assessments, interest, and costs collected. Such a payment made and so receipted and entered discharges, to the extent, and from the date, of the payment, the lien to which the payment is related.
- (4) The docket is a public writing, and the original or duplicate original of an entry therein, or a copy of the entry certified by the finance officer to be true, has the force and effect of a judgment from the time of the entry. From the time of the entry, a lien so entered has priority over all other liens and encumbrances upon the property upon which the lien has been impressed. The lien shall be enforced in the manner prescribed by this Code.

(Section 2.540 added by Ordinance No. 18179, enacted May 8, 1978.)

2.541 Finance Officer - Sale of Property for Delinquent Liens - Authority.

In addition to other methods authorized by state law or this Code for foreclosing liens entered in the docket of city liens or for otherwise collecting assessments, taxes, and other charges upon which such liens are based, real property subject to such a lien may be sold under the provisions of sections 2.542, 2.543, and 2.544 of this Code:

- (a) In case the lien is unbonded, 60 days or more after the obligation on which the lien is based becomes due and is unpaid, and
- (b) In case the lien is bonded, one year or more after any installment on which the lien is based becomes due and is unpaid.

(Section 2.541 added by Ordinance No. 18179, enacted May 8, 1978.)

2.542 Finance Officer - Sale of Property for Delinquent Liens - Procedure.

- (1) For purposes of lien foreclosure, the finance officer shall determine which liens shall be included in a foreclosure sale and shall list them in tabular form from the docket of city liens. The list shall
 - (a) Identify each property upon which a lien being foreclosed has

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been impressed:

- (b) State the name, if known, of the owner of the property;
 - (c) State the amount of the lien due, which is the unpaid principal, plus interest to the date of the sale;
 - (d) State the amount(s) of any other city liens on the property which are not included in the foreclosure sale and the obligations on which they are based; and
 - (e) State whatever other information, including incidental foreclosure costs, as is necessary or convenient to foreclose the lien.
- (2) Upon completing the list, the finance officer shall foreclose the listed liens by advertising and selling the listed property in the manner prescribed by State law for sale of property on execution, except as otherwise prescribed in this section and section 2.543, and except that the sale may be made at whatever place in the city the notice of sale designates.
- (3) Each property listed for sale shall be sold separately for not less than minimum price set by the finance officer by the beginning of the sale.
- (4) Subject to redemption under section 2.545, a sale under this section is a conveyance to the purchaser of all of the city's right, title and interest in and to the property and the appurtenances thereunto belonging except other city liens not included in the foreclosure.
- (5) The finance officer shall, at least 10 days before a foreclosure sale is held under this section, cause notice of the sale to be delivered to each owner of property to be sold at the sale or to be sent to the owner by certified mail addressed to the owner at the owner's address, if known to the finance officer, or, if not so known, to the owner's address as currently listed in the records of the county assessor. Error in the name or address of the owner does not impair the validity of the notice. The notice shall
- (a) Identify the property,
 - (b) State the nature of the obligation for which the lien to be foreclosed has been established,
 - (c) State the amount of the lien, and
 - (d) State that, unless the obligation is paid before the time set for the sale, the city intends to sell the property and to convey to the purchaser legal and equitable title to the property unless it is redeemed under section 2.545.
- (6) At a foreclosure sale, the finance officer may sell any number of properties on which the city holds delinquent liens and may foreclose more than one lien upon a single property. The finance officer need not sell all the properties listed in the advance notice of the sale.
- (7) At a foreclosure sale, if identical bids are received for a single property and one of the bids is from the city, that bid has priority. If none of the bids is by the city and two or more are identical bids, the one bearing the earliest postmark has priority. If identical bids have no priority one over the other on the basis of preceding terms of this subsection, the finance officer may accord one of the bids priority on the basis of

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foreclosure policy enunciated by resolution of the city council.
(Section 2.542 added by Ordinance No. 18179, enacted May 8, 1978.)

2.543 Finance Officer - Sale of Property for Delinquent Liens - Record.

- (1) The finance officer shall maintain a record of property sold at foreclosure sales.
- (2) If the city purchases the property by bidding therefor in accordance with section 2.542(7) or 7.225(2), payment consists of debiting and crediting the appropriate city accounts, and the city takes title to the property free of all liens for which the property is sold.

(Section 2.543 added by Ordinance No. 18179, enacted May 8, 1978.)

2.544 Finance Officer - Sale of Property for Delinquent Liens - Certificate of Sale.

- (1) The finance officer, after having sold property listed under section 2.542(1), shall deliver to the purchaser a certificate of sale of the property sold. The certificate shall
 - (a) State the nature of the obligation for which the property has been sold,
 - (b) Identify the property,
 - (c) State the amount for which the property has been sold,
 - (d) State the amounts of city liens remaining on the property after the foreclosure and the obligations on which they are based,
 - (e) State the name of the purchaser, and
 - (f) State that the sale is subject to redemption of the property within one year after the date of the certificate.
- (2) The certificate is assignable, but no assignment of it is valid unless reported to the finance officer and recorded in the docket of city liens.

(Section 2.544 added by Ordinance No. 18179, enacted May 8, 1978.)

2.545 Finance Officer - Sale of Property for Delinquent Liens - Redemption.

- (1) The owner of property sold for a delinquent lien, the owner's legal representative or successor in interest, a person holding a lien on the property by virtue of a judgment, decree, or mortgage, or the owner of a tax lien on the property may redeem the property by paying the finance officer, within one year after the date of the certificate of sale of the property under section 2.544, the purchase price of the property at the sale, 10 percent of that price as penalty, and interest on that price at 10 percent per annum from the date of the certificate. When, however, the redemption takes place within three months after the sale, the penalty is five percent of the purchase price.
- (2) A redemption under this section discharges the property redeemed from the effect of the sale. If the redemption is by a lien creditor, the amount paid for the redemption becomes a part of the creditor's judgment, decree, mortgage, or tax lien, bears interest at the same rate as the judgment, decree, mortgage, or tax lien, and may be enforced

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and collected as part of the judgment, decree, mortgage, or tax lien.

- (3) Within 30 days after property is sold under sections 2.541 to 2.544, the finance officer shall cause notice of the sale to be delivered to the owner or to be sent to the owner by certified mail addressed to the owner at the owner's address, if known to the finance officer, or, if not so known, to the owner's address as currently listed in the records of the county assessor. The notice shall state the sale of the property, the purchase price for which it has been sold, and the terms under which it may be redeemed.

(Section 2.545 added by Ordinance No. 18179, enacted May 8, 1978.)

2.546 Finance Officer - Execution of Deed to Foreclosed Property Not Redeemed.

- (1) More than one year after a certificate of sale is issued under section 2.544(1), if the property sold is not redeemed under section 2.545, the finance officer shall execute a deed conveying the property to the purchaser or the purchaser's heirs or assigns. The deed shall identify the property and state:
- (a) The date of its sale,
 - (b) Its sale price,
 - (c) The lien for which it is sold,
 - (d) The delinquency of the lien at the time of the sale, and
 - (e) The fact of no redemption under section 2.545.
- (2) The deed conveys to its grantee the legal and equitable title in fee simple to the real property described in the deed, except city liens on the property that are not included in the foreclosure.
- (3) The deed is prima facie evidence that title is in the grantee, subject to the exception under subsection (2) of this section, and that all acts necessary for the validity of the deed have been done. The evidence may be rebutted only by satisfactory proof of one of the following:
- (a) Fraud in the assessment or in the procurement of the lien.
 - (b) Payment of the assessment or lien before the sale.
 - (c) Redemption of the property after the sale.
 - (d) Prevention of payment or of redemption by fraud of the purchaser.
 - (e) Non-liability of the property or the owner for the lien or assessment for which the property has been sold.
 - (f) Non-assessment of the property.
- (4) The grantee named in the deed may, upon delivery thereof, possess the property immediately.

(Section 2.546 added by Ordinance No. 18179, enacted May 8, 1978.)

2.547 Finance Officer - Limitation of Time for Recovering Foreclosed Property. Action to recover property sold by the finance officer for a delinquent lien may not be commenced later than one year after the recording of the deed conveying the property. In the action, the party claiming to be the owner shall tender with the first pleading the amount for which the property has been sold, together with the penalties prescribed at

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the time of the sale and all taxes and assessments on the property which the purchaser or the purchaser's heirs or assigns have paid after the sale, together with interest on the amount, the taxes, and the assessments so paid, at the rate of 10 percent per annum from the times when they have been paid.

(Section 2.547 added by Ordinance No. 18179, enacted May 8, 1978; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

2.560 Deductions Authorized. Salary and wage deductions may be made by the proper officers of the city on the regular payrolls in cases where such deductions shall have been ordered and approved in writing by the officer or employee affected. A service charge may be collected from the person or organization in favor of whom the deduction is made.

(Section 2.560 amended by Ordinance No. 19651, enacted November 20, 1989.)

2.567 Sewer Construction Warrants. The city manager or the manager's designee is authorized and empowered to purchase and invest in sewer construction warrants issued by the city, excess resources which have been derived from collection of water user charges pursuant to the provisions of section 6.421 and presently held in the fund for sewer operations.

(Section 2.567 amended by Ordinance No. 19651, enacted November 20, 1989.)

2.575 Fiscal Year. The city adopts the fiscal tax year established by the state commencing July first in each year and terminating on June thirtieth of the ensuing year, and directs that its books be closed on the thirtieth day of June in each year.

(Section 2.575 amended by Ordinance No. 19651, enacted November 20, 1989.)

2.580 Monies to be in U. S. Currency. All sums due the city for taxes, fines or license fees shall be paid in United States currency.

(Section 2.580 amended by Ordinance No. 19651, enacted November 20, 1989.)

2.582 Modification, Compromise or Cancellation of Claims.

- (1)** As used in this section "claim" shall mean any sum due the city from another and includes but is not limited to taxes, assessments, fines, fees, charges, rents, penalties, payments, amounts due the city on contracts or arising from damages sustained by the city. It shall also include any interest due thereon.
- (2)** Except as provided in subsections (3) and (4) of this section, it shall be the duty of the city manager or the manager's designee to collect all claims in full and to take all actions necessary in the discretion of the city manager or the manager's designee to collect the claims.
- (3)** When in the discretion of the city manager or the manager's designee it appears in the best interest of the city or it appears the cost of requiring timely payment is not justified, the city manager or the manager's designee may extend the time for payment of a claim or the rate of interest thereon, or both. In consideration for such a modification of the

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claim, the city manager or the manager's designee may require additional security to insure its payment.

- (4) The city manager or the manager's designee may compromise, settle, or cancel any claim when it is in the city's financial interest and:
- (a) Where litigation involving the validity of the claim is pending or seriously threatened and there is a grave legal question as to the validity of the claim;
 - (b) When, notwithstanding section 2.580, accepting payment in the form of property of equal or greater value than the claim insures payment of the claim that otherwise may be uncollectible or collectible at great expense to the city;
 - (c) Where good and sufficient cause is shown and the amount of the claim is \$10 or less;
 - (d) When any claim has been delinquent for seven or more years and:
 - 1. All reasonable efforts have been made to effect collection,
 - 2. The person against whom the city has a claim cannot be located or is dead, and
 - 3. The claim is wholly uncollectible.
 - (e) When the city manager or the manager's designee determines that the administration and collection costs involved would exceed the amount that can reasonably be expected to be recovered;
 - (f) When the property against which a city lien exists is donated to the city, provided the city makes no payment for the property and the property is not pledged as security to the holders of any evidence of city indebtedness;
 - (g) When the adjustment of the claim involves only interest or penalties which were imposed by a discretionary administrative decision; or
 - (h) When the claim involves an administrative civil penalty assessed under section 2.018.
- (5) The authority granted the city manager or the manager's designee in this section does not allow the waiver of any sum due the city under this code or state law the payment of which is a precondition to receiving a benefit, service, decision, permit or privilege issued or to be performed by the city.
- (6) Any modification, compromise, settlement or cancellation of a claim under this section shall be reviewed by a city attorney, reduced to writing, signed when possible by the parties thereto, and recorded when necessary. Such agreements shall provide that in the event the obligor has withheld or misrepresented material facts or committed fraud, a penalty in the amount of the original claim shall be added to the sums then due and the entire amount shall be immediately due and payable to the city, and such other provisions as may be required by the city manager or the manager's designee.

(Section 2.582 added by Ordinance No. 19361, enacted October 14, 1985; amended by Ordinance No. 19651, enacted November 20, 1989; and Ordinance No. 19913, enacted April

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26, 1993, effective May 23, 1993.)

2.585 Risk Management Fund - Administration.

- (1) On August 14, 1978, in Ordinance No. 18247, a risk management fund was created. It is the objective of the city to place, maintain, and carry-over from year to year in that fund, an amount sufficient to meet the city's future liabilities, including but not limited to, developed claim costs, incurred but not reported losses, larger than anticipated judgments, employee benefit programs, and other contingencies. From time to time, appropriations to the fund may be made in accordance with the Local Budget Law; in addition, all insurance premium refunds, rebates and dividends shall be placed in the fund.
- (2) The city manager or designee shall invest such portion of the risk management fund as is deemed prudent in such manner as will enable the city to meet its obligations in a timely manner. All earnings of the fund shall become a part of the fund. It is recognized that as the fund reaches sufficient size it could become sustaining so that earnings will reduce the amount, if any, of other city revenues that must be placed in the fund.
- (3) The city manager or designee is to endeavor to maintain in the risk management fund a reserve amount for estimated losses, the estimated costs of all insurance premiums, and an amount to defray administrative costs.
- (4) Disbursements or transfers from the risk management fund may be made only by:
 - (a) The city manager or designee in payment of insurance premiums and administrative expenses of the city's risk management program;
 - (b) The claims adjuster or adjusters contracted with or employed by the city to administer its risk management program in settlement of claims up to an amount as provided by contract;
 - (c) The city manager or designee, in settlement of claims.
- (5) The city manager or designee shall maintain a complete and accurate file of all claims and payments made and activities of the risk management fund.

(Section 2.585 added by Ordinance No. 18329, enacted February 7, 1979; amended by Ordinance No. 19340, enacted June 26, 1985, effective July 26, 1985; and Ordinance No. 19709, enacted July 23, 1990.)

2.604 Fire and Ambulance Services.

- (1) The city shall provide fire suppression and fire prevention and may provide ambulance services. The scope of these services inside and outside the city limits are to be established annually by the adopted budget of the city and organized as directed by the city manager.
- (2) Employees in position classifications determined by the city manager shall have authority to act as a city police officer for purposes of fire suppression and fire prevention.

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(Section 2.604 added by Ordinance No. 18733, enacted December 17, 1980.)

2.606 Ambulance Service.

- (1)** As used in sections 2.606 and 2.608 of this chapter, "ambulance service" means the transportation of an ill, injured or disabled individual and, in connection therewith, the administration of pre-hospital and out-of-hospital medical, emergency or non-emergency care, if necessary.
- (2)** As used in sections 2.606 and 2.608 of this chapter, "emergency care" means the performance of acts or procedures under emergency conditions in the observation, care and counsel of the ill, injured or disabled, or in the administration of care or medications as prescribed by a licensed physician, insofar as any of those acts is based upon knowledge and application of the principles of biological, physical and social science.
- (3)** As used in section 2.606 and 2.608 of this chapter, "non-emergency care" means the performance of acts or procedures on a patient who is not expected to die, become permanently disabled or suffer permanent harm within the next 24 hours, including but not limited to observation, care and counsel of a patient and the administration of medications prescribed by a licensed physician, insofar as any of those acts are based upon knowledge and application of the principles of biological, physical and social science.
- (4)** In the event it is determined by the city manager that the community is or will imminently be without ambulance service, the city manager is authorized to expend public funds from whatever source to provide ambulance service to the community until directed by the council to cease the expenditures, until the council adopts a supplemental budget under the Oregon Local Budget Law, or until 60 days, whichever is less.
- (5)** No person shall operate an ambulance vehicle or provide ambulance services within the corporate limits of the city unless such person is designated as the ambulance service provider for the city under the Lane County Ambulance Service Area Plan, or is providing non-emergency care as a subcontractor to the designated service provider. The provisions of this subsection do not apply to:
 - (a)** Vehicles and ambulances exempt from ambulance licensing requirements of state law;
 - (b)** Vehicles being used to render temporary assistance to the city's designated ambulance service provider under the terms of a mutual aid agreement, or under the supervision of the city's designated service provider; or
 - (c)** Vehicles operating from a business location, office or headquarters outside the city, that are transporting a patient from outside the city to a health care facility within the city or are picking up a patient from within the city for transport outside the city, or vehicles which are passing through without destination in the city.

(Section 2.606 added by Ordinance No. 18734, enacted December 17, 1980; amended by

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Ordinance No. 19929, enacted September 13, 1993, effective October 13, 1993; and amended by Ordinance No. 20320, enacted May 13, 2004, effective June 12, 2004.)

2.608 Ambulance Services - Fees.

- (1) The city manager may set all rates and fees for any ambulance service operated by the city. Except in an emergency when such rates and fees may be immediately imposed, all rates and fees shall be established only after public notice, hearing and findings that the proposed adjustments are:
 - (a) in the public interest,
 - (b) except as approved by the council, insure the ambulance service will not draw on the general tax revenues of the city, and
 - (c) will insure those who receive the service pay in proportion to the cost of the service provided.
- (2) The decision of the city manager to establish rates and fees in subsection (1) above shall be final unless an aggrieved person appeals the decision to the council. The appeal shall be in writing and filed with the council within 30 days of the city manager's decision. Except in an emergency, the appeal suspends implementation of the city manager's decision until the council hears the appeal. The council shall hear the appeal promptly and affirm, modify or repeal the decision of the city manager.
- (3) The city manager or the manager's designate shall pursue collection of fees and charges established under subsections (1) and (2) by all lawful remedies available to the city to recover costs for services rendered plus collection costs, including attorney fees.

(Section 2.608 added by Ordinance No. 18734, enacted December 17, 1980; administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

2.610 Fire and EMS Response Fees.

- (1) Applicability. Subject to the provisions of this section, the city may impose fire and EMS response fees when fire or EMS personnel respond to incidents involving out-of-area persons who are not members of FireMed or a reciprocating FireMed program. As used in this section, "out-of-area person" means persons residing outside of the cities of Eugene and Springfield and any special district which contracts with the cities of Eugene or Springfield to provide their fire service.
- (2) Vehicular Accidents. When fire or EMS personnel respond to an incident involving a vehicular accident, a response fee not to exceed \$450.00 may be charged to any out-of-area person.
- (3) Adoption of Fees. The response fees shall be established by the city manager pursuant to section 2.020 of this code as provided in subsection (2) of this section.
- (4) Collection. A statement for payment of the response fee shall be sent to the out-of-area person(s) involved in the incident. The amount shall constitute a debt due to the city from the recipient, may be collected in any manner authorized by law, and is recoverable in a civil action

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brought in the name of the city in a court of competent jurisdiction for recovery of the amount plus reasonable attorney fees.

- (5) Appeal. A person who is issued a statement under subsection (4) of this section and believes that the statement, or the amount of the response fee in the statement, is not authorized by this code, may appeal in the manner provided by section 2.021 of this code. The appeal shall be heard and determined by a hearings officer in the manner set forth in section 2.021 of this code.

(Section 2.610 added by Ordinance No. 20478, enacted September 26, 2011, effective October 29, 2011.)

2.625 Fire Suppression and Prevention Services Outside City Limits.

- (1) A person residing outside the city or a fire district desiring fire suppression or fire prevention services for the protection of the person's property shall make an application to the city on forms provided, and if the application is approved, shall pay to the city a sum of money as the council shall establish for the services.
- (2) The services provided under the preceding subsection shall be secondary to the protection of property within the city. Except as shall be deemed safe by the city manager or the manager's designate, city equipment and employees shall not be required to go to fires outside the city.

(Section 2.625 amended by Ordinance No. 18733, enacted December 17, 1980; amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

2.638 Definitions. For purposes of sections 2.638 to 2.648 of this Code, the following words and phrases mean:

Artist. A practitioner in the visual arts, generally recognized by critics and peers as a professional of serious intent, who produces works of art, and who is not a member of the project architectural firm or selection committee for the project under review.

Committee. The art fund selection committee established to purchase works of art.

Deaccessioning. The end of the use or display of artwork in a public place by appropriate means, including, but not limited to, removal and storage, sale, or termination of a contract or agreement.

Public place. Any building, park, mall, or other capital construction project (but not including streets, alleys, bicycle paths, and other public thoroughfares) constructed, remodeled, or purchased by the city which construction, remodeling or purchasing involves the expenditure of more than \$50,000. As used herein, "remodeled" or "remodeling" includes modifications and/or additions to existing facilities, but does not include

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projects that are necessary in order to preserve, maintain, or repair existing facilities.

Visual Arts Coordinator. The person employed by the city and appointed by the city manager to coordinate and facilitate the implementation of sections 2.638 to 2.648 of this Code.

Works of Art. All forms of original creations of visual art, including and not limited to:

Painting: all media, including both portable and permanently-affixed or integrated works such as murals.

Sculpture: in the round, bas-relief, high relief, mobile, fountain, kinetic, electronic, etc., in any material or combination of materials.

Prints, clay, drawings, stained glass, mosaics, photography, fiber and textiles, wood, metal, plastics and other materials or combination of materials, calligraphy, and mixed media, any combinations of forms of media, including collage.

(Section 2.638 added by Ordinance No. 18849, enacted August 10, 1981; amended by Ordinance No. 20105, enacted January 26, 1998, effective February 25, 1998; and Ordinance No. 20163, enacted July 26, 1999, effective August 26, 1999.)

2.640 Fund for Art in Public Places Established. There is hereby created a special fund to be used to make provisions for works of art in public places and improvements owned by the city. One percent (1%) of all funds for construction, remodeling, or purchasing of public places hereafter authorized by the city, except for funds used to purchase land without improvements or land with improvements that are unrelated to the reason for the purchase, shall be appropriated and deposited into this fund.

(Section 2.640 added by Ordinance No. 18849, enacted August 10, 1981; amended by Ordinance No. 19651, enacted November 20, 1989; Ordinance No. 20105, enacted January 26, 1998, effective February 25, 1998; and Ordinance No. 20163, enacted July 26, 1999, effective August 26, 1999.)

2.642 Fund for Art in Public Places - Use of Funds. At an appropriate initial stage in the planning, design, construction, or purchase of a public place, the city department or authority designated by the city manager to be responsible for construction or purchase of the public place, together with the visual arts coordinator, shall establish a budget amount for the works of art to be provided as a part of the project and a recommended medium and location for such works of art. The amount budgeted for a particular project may be less than the deposit into the fund for art in public places generated by that project under section 2.640 of this code. Such budget amount and further recommendations shall be reviewed and approved by the city manager, whose approval shall be final.

(Section 2.642 added by Ordinance No. 18849, enacted August 10, 1981; amended by

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Ordinance No. 19651, enacted November 20, 1989; and Ordinance No. 20105, enacted January 26, 1998, effective February 25, 1998.)

2.644 Fund for Art in Public Places - Surplus. The unused balance of the fund for art in public places at the end of any fiscal period shall be carried forward for use as set forth in section 2.648 of this code.

(Section 2.644 added by Ordinance No. 18849, enacted August 10, 1981; amended by Ordinance No. 19651, enacted November 20, 1989; and Ordinance No. 20105, enacted January 26, 1998, effective February 25, 1998.)

2.646 Fund for Art in Public Places - Committee.

- (1) There is hereby created an art selection committee for each arts funding project to be designated by the city manager upon recommendation of the visual arts coordinator to serve as is necessary in connection with the selection and placement of works of art in public places.
- (2) The city manager shall adopt initial rules of procedure and internal organization which shall govern the selection of committee members, conduct of committee meetings, and a method or methods for the selection of artists or works of art and for placement of works of art in public places. The visual arts coordinator may adopt amendments to the initial rules of procedure and internal organization. The initial and any amended rules are subject to review by the city attorney and must be ratified by the council. Upon presentation to the council of rules of procedure and internal organization, the council may affirm, reject or modify any provision.
- (3) To the extent not otherwise provided by this section, actions of the committee are final. Any person, or the governing body responsible for the project, may appeal the actions of the committee to the city manager only upon the grounds that the committee acted in a manner contrary to law or abused its discretion to the substantial prejudice of the appellant. Any appeal must be made in writing to the city manager within ten days of the action complained of and must state with particularity the grounds for the appeal. The city manager shall proceed to consider the appeal on the record of the proceedings, unless the manager believes a hearing is necessary or desirable to fairly decide the questions raised. The decision of the city manager is final.

(Section 2.646 added by Ordinance No. 18849, enacted August 10, 1981; and amended by Ordinance No. 19651, enacted November 20, 1989.)

2.648 Fund for Art in Public Places - Selection of Art.

- (1) Appropriations from the fund for art in public places may be spent for:
 - (a) The work of art itself, which may include, but not be limited to:
 1. Artist's professional design fee.
 2. Labor of assistants, and materials required for production of the work.
 3. Studio and operating costs of the artist, including rent,

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- utilities, insurance, and other direct and indirect costs.
- 4. Travel of the artist for site visitation and research.
- 5. Transportation of the work to the site.
- 6. Installation of the completed work.
- (b) Identification plaques, labels, and other documentation.
- (c) Waterworks and electrical and mechanical devices, equipment and site work which are integral parts of the work of art.
- (d) Frames, mats, pedestals, anchorages, containments, and devices necessary for the security of the work of art.
- (e) Works of art which may be an integral part of the building.
- (f) Direct expenses of the selection committee.
- (g) Insurance.
- (h) Expenses for special consultants or advisors.
- (i) The project reserve fund.
- (j) Integrated crafts which are part of the building or construction project.
- (k) Expenses for registration, appraisal, maintenance, repair and deaccessioning of artworks in the city's public art collection.
- (l) Expenses for promotion and education activities associated with the public art program.
- (m) Administrative expenses for management of the city's public art program, including but not limited to, promotion and education activities, selection, acquisition, placement, registration, appraisal, maintenance, repair and deaccessioning of artworks.
- (2)** Appropriations from the fund for art in public places may not be spent for:
 - (a) Reproductions, by mechanical or other means, of original works of art.
 - (b) Decorative, ornamental, or functional elements which are specifically designed by the building architect or consultants engaged by the architect, as opposed to an artist commissioned for this purpose.
 - (c) Those elements generally considered to be components of a landscape architectural design.
 - (d) Art objects which are mass produced of standard design, such as playground sculpture or fountains.
 - (e) Directional, or other functional elements, such as supergraphics, signage, color coding, maps, etc., except where a recognized artist is employed.
 - (f) Preparation of the site necessary to receive the work of art.
 - (g) Electrical, water, or mechanical service for activation of the work (i.e., utility costs).
 - (h) Architect's fees.

(Section 2.648 added by Ordinance No. 18849, enacted August 10, 1981; amended by Ordinance No. 19651, enacted November 20, 1989; and Ordinance No. 20105, enacted January 26, 1998, effective February 25, 1998.)

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2.650 Police Department - Membership.

(1) The police department may consist of one chief of police and other police officers.

(2) All officers of the police department shall be appointed by the manager.

(Section 2.650 administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

2.655 Police Department - Chief. The chief of police shall be the superior police officer and shall direct and control all other police officers subject to the authority and control of the city manager. It shall be the duty of the chief of police to execute all processes as directed by the municipal judge or by any magistrate of the state.

2.660 Police Department - Duties, Generally.

(1) The chief of police and all city police officers shall have all the powers of arrest permitted a peace officer under the laws of the state.

(2) The chief of police and all police officers shall perform such duties as may be required by the Charter of the city, the provisions of this Code or directives of the city manager.

(3) A community service officer shall perform such duties as may be required by the charter of the city, the provisions of this code, or directions of the city manager. A community service officer shall have the authority to enforce all parking, vehicle storage, noise disturbance provisions of sections 4.080 and 4.083 of this code, and animal regulations permitted under the laws of this state and city by issuance of a citation, but is not authorized to arrest. A community service officer shall have the same authority as a police officer when directing traffic on the streets or public thoroughfares of the city.

(4) No person shall fail to obey a lawful order, signal or direction of a community service officer while such individual is engaged in any of the duties pursuant to the provisions of subsection (3) of this section and is wearing an authorized insignia or uniform.

(Section 2.660 amended by Ordinance No. 19542, enacted March 16, 1988, effective March 26, 1988; administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998; and amended by Ordinance No. 20466, enacted November 22, 2010, effective December 24, 2010.)

2.665 Police Department - Use of Police Uniform.

(1) No person other than a City of Eugene police officer shall wear or use, or authorize the wearing or use of, a uniform that is substantially similar to the official sworn officer's uniform. For purposes of this section:

- (a) "Official sworn officer's uniform" means the style and color of uniform authorized by the city manager or designee for use by sworn officers in the Eugene Police Department, and it includes the associated equipment and badge, star or insignia worn or carried by those officers; and

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- (b) A uniform is “substantially similar to the official sworn officer’s uniform” if it is reasonably likely that a citizen will believe the person wearing the uniform is a sworn officer in the Eugene Police Department.
- (2) The prohibition in subsection (1) of this section does not apply to police officers as defined in ORS 181.610(14)(2003).
- (3) The city manager shall adopt rules pursuant to section 2.019 of this code:
 - (a) Defining the color or colors, design, identifying insignia, badge, standard equipment and other features that constitute the official sworn officer’s uniform; and
 - (b) Defining the combination or combinations of features of the official sworn officer’s uniform that, if duplicated or substantially duplicated in another uniform, would render the other uniform substantially similar to the official sworn officer’s uniform.
- (4) If the city modifies the official sworn officer’s uniform, amendments to the rules described in subsection (3) of this section shall provide a reasonable time to come into compliance for persons who, as of the date of any amendment to the rules, are required as part of their employment to wear a uniform that is substantially similar to the official sworn officer’s uniform as modified.
- (5) In developing the rules described in subsections (3) and (4) of this section, the city manager or designee shall consult with other public safety agencies and with private security companies.
- (6) Upon a determination by the city manager or designee that a person has violated the provisions of this section, the city manager or designee may impose an administrative civil penalty as provided in section 2.018 of this code.

(Section 2.665 added by Ordinance No. 20344, enacted May 25, 2005, effective June 24, 2005, with Subsection (1) effective January 1, 2006.)

2.770 Municipal Court - Complaints and Citations.

- (1) All proceedings or actions before the municipal judge shall be commenced by complaint or citation setting forth the violation of this Code, with such particulars as to the time or place or person or property as to enable the defendant to understand the character of the offense and answer the complaint or citation.
- (2) All complaints or citations for traffic violations and traffic offenses issued by a police officer shall contain a form of certificate by the arresting officer to the effect that the officer is certified under penalties provided in ORS 153.995 that the officer has reasonable grounds to believe, and does believe, that the person cited committed the offense contrary to law. Except for citations for parking violations, all other citations shall contain the requirements set forth in ORS 133.065. Citations for violation of parking regulations need not be verified by oath. All other complaints shall be verified by the oath of the person making the same.
- (3) The defendant may move against or demur to a complaint, or shall

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plead thereto. The defendant may move against a citation or shall plead thereto. Pleas may be oral or may be in writing. Upon entry of a plea of not guilty, the case shall be placed upon the trial docket for trial in the normal course.

(Section 2.770 amended by Ordinance No. 18048, enacted September 7, 1977; Ordinance No. 19219, enacted February 8, 1984; Ordinance No. 19462, enacted April 13, 1987; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

- 2.772 Municipal Court - Location.** The municipal judge may hold court at the following locations in the city:
- (a) Eugene City Hall;
 - (b) Eugene Municipal Court, Roberts Building, 1102 Lincoln Street;
 - (c) Lane County Adult Corrections Facility, 101 West 5th Avenue; and
 - (d) Other such locations within the city as designated by the city manager.

(Section 2.772 added by Ordinance No. 19017, enacted September 8, 1982; amended by Ordinance 20493, enacted May 21, 2012, effective May 23, 2012.)

2.773 Municipal Court - Presiding Municipal Judge: Qualifications and Term of Office.

- (1) Except as provided in this section the presiding municipal judge shall be appointed by the council for a term of four years. The presiding municipal judge shall be an independent contractor, and not an officer or employee of the city, and shall be an active member of the Oregon State Bar with at least five years experience as a practicing attorney. The presiding municipal judge shall be a resident of or maintain a principal office within the city.
- (2) Should the position of presiding municipal judge become vacant for whatever cause, the council shall appoint an acting presiding municipal judge from among the assistant municipal judges then serving in municipal court to serve until such time as a qualified successor is selected to complete the unexpired portion of the term of appointment. The successor to be selected as provided in subsection (1) of section 2.011 of this chapter.
- (3) Notwithstanding the provisions of subsection (1) of this section, the position of presiding municipal judge is vacant when the person filling the position:
 - (a) resigns, dies or is incapacitated;
 - (b) ceases to be an active member in good standing of the Oregon State Bar;
 - (c) ceases to be a resident of or maintain a principal office within the city; or
 - (d) is removed by action of the council, with or without cause, upon 30 days written notice.

A notice given under subsection (d) of this section may require the immediate cessation of services as presiding municipal judge upon the payment of 30 days severance pay, or, in the alternative, the council

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may provide that the removal becomes effective upon the expiration of the 30 days.

(Section 2.773 added by Ordinance No. 18928, enacted February 17, 1982; amended by Ordinance No. 19936, enacted October 25, 1993; and Ordinance No. 20138, enacted December 7, 1998, effective January 6, 1999.)

2.775 Municipal Court - Authority. The municipal judge shall have all inherent statutory powers and duties of a justice of the peace within the jurisdictional limits of the city. The municipal judge may accomplish by any lawful means the serving of subpoenas, notices of jury duty, summonses, and all other orders of the court necessary for the proper conduct thereof and, within the limit set by the penalty and state law, may prescribe the bail, security deposit, fine or forfeiture for violation of any provision of this code.

(Section 2.775 amended by Ordinance No. 16288, enacted August 24, 1971, and Ordinance No. 19152, enacted May 30, 1984.)

2.776 Municipal Court - Assistant Judges: Appointment and Compensation.

- (1) The presiding municipal judge, in consultation with the associate municipal judge, is hereby authorized to appoint assistant municipal judges, from active members of the Oregon State Bar Association, approved by that Association and in good standing, as the presiding officer shall determine necessary from time to time to hold office and conduct sessions of the municipal court.
- (2) Upon recommendation of the presiding municipal judge, the city manager shall determine the compensation to be paid any assistant judge so appointed. The total amount paid to all assistant judges shall not exceed existing budget allocations identified for that purpose unless otherwise approved by the city council.

(Section 2.776 added by Ordinance No. 16287, enacted August 24, 1971; amended by Ordinance No. 18928, enacted February 17, 1982; Ordinance No. 19936, enacted October 25, 1993; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

2.780 Municipal Court - Not to Give Advice. The municipal judge shall not advise a person in respect to the person's rights under the ordinances of the city, unless it is to refer to those rights in open court.

2.785 Municipal Court - Procedure. All proceedings in municipal court shall be governed by the general laws of the state applicable to justices of the peace and justices' courts, except as otherwise prescribed by ordinance.

(Section 2.785 amended by Ordinance No. 16731, enacted March 12, 1973; and Ordinance No. 19304, enacted January 9, 1985.)

2.790 Municipal Court - Selection of Jurors.

- (1) Except as provided in this section, selection of jurors in municipal court shall be governed by the general laws of the state applicable to justices' courts. Jury list sources shall be the latest tax roll and registration books used at the last city election.

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- (2) The number of jurors summoned to form a panel is to be determined by the court. When a sufficient number of qualified and available jurors have been selected from the jury list, their names shall be inserted in the Order to summon the jury.
- (3) Examination of prospective jurors shall be by the municipal judge. The parties may submit to the judge any questions they desire to be asked of the jurors. Thereafter, the judge shall allow each party a period time for additional questioning of prospective jurors. Challenges for cause shall be taken orally.
- (4) Each party is entitled to two peremptory challenges. The challenges shall be exercised alternately, commencing with the defendant, in accordance with the procedure directed by the court. The initial selection of the six from among the prospective jurors summoned to form the panel shall be by lot, and any replacement juror necessitated by the exercise of a challenge shall be selected by lot from among those remaining.
- (5) Upon completion of the challenge process, the six jurors so selected shall be empaneled to try the case.

(Section 2.790 added by Ordinance No. 17941, enacted March 28, 1977; amended by Ordinance No. 19304, enacted January 9, 1985; Ordinance No. 19320, enacted April 17, 1985; and Ordinance No. 19798, enacted September 9, 1991, effective October 10, 1991.)

2.811 Municipal Court - Disregard of Jury Notice. The municipal judge may hold a prospective juror who disregards the notice of jury duty in contempt of court.

(Section 2.811 added by Ordinance No. 19152, enacted May 30, 1984.)

Domestic Partnership Registry

- 2.815 Domestic Partnership Registration.** The city values the dignity and worth of all people and is committed to promoting justice, equity and inclusivity. The city is committed to fair treatment of its people and employees and equal respect for all. The city finds that domestic partnerships today exist in many different forms including unmarried couples who are living together in spousal equivalent relationships. In order to promote equal respect and fair treatment, and to protect the public health, safety and welfare, it is the policy of this city to allow persons in committed relationships who meet the domestic partnership criteria to register at the office of the city recorder and obtain a certificate attesting to their status.

(Section 2.815 added by Ordinance No. 20264, enacted November 12, 2002, effective February 1, 2003.)

- 2.820 Domestic Partnership - Registration Requirements, Procedures.**
- (1) Requirements.** To be qualified to register as domestic partners, couples shall meet the following requirements:
- (a) They live as a family, are in a relationship of mutual support, caring and commitment, and intend to remain in such a relationship;
 - (b) Neither of them is married or registered as the domestic partner of any other person in any jurisdiction, nor has either terminated a registered domestic partnership within the preceding six months;
 - (c) Both of them are at least 18 years of age; and
 - (d) They are not related by blood kinship closer than would bar marriage in the state of Oregon, and are mentally competent to consent to contract.
- (2) Registration.** To register, qualified couples shall sign and submit a Statement of Domestic Partnership stating that they meet the qualifications in subsection (1) of this section and attesting that they:
- (a) Understand that the registration of domestic partnership is evidence of a domestic partnership of continuous duration; and
 - (b) Agree to file a statement of termination if the partnership is terminated (except by death) or if any of the declarations in subsections (1) (a) or (b) of this section is no longer true.
- The statement of domestic partnership shall be signed by at least one person who has witnessed the partners' signatures. The partners shall submit the statement of domestic partnership to the city recorder, along with any required fees. Upon verification of the partners' identities, the city recorder shall issue a Certificate of Domestic Partnership, which shall be signed by the partners and the city recorder. It is not a requirement for registration that the partners reside in the city.
- (3) Termination of Domestic Partnership.** A domestic partnership registration terminates when:
- (a) One of the partners dies; or

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- (b) One or both of the partners files a statement of termination with the city. If only one partner files a statement of termination, that partner must certify that the filing partner notified the other partner by mailing a notice of such intent by certified mail, return receipt requested, to the last known address of the other partner.
- (4) Retention of Domestic Partnership Records. The city recorder will maintain a registration record for each domestic partnership registered with the city that includes the partners' names, registration date, termination date (if applicable), certificate number, copy of the Statement of Domestic Partnership and a copy of the Statement of Termination (if applicable).
- (5) Administrative Rules. The city manager may adopt administrative rules pursuant to section 2.019 of this code, and establish fees pursuant to section 2.020 of this code, in order to implement the provisions of sections 2.815 and 2.820 of this code. The rules shall include, but not be limited to, the form and content of the domestic partnership certificate, the statement of termination and the registration record.

(Section 2.820 added by Ordinance No. 20264, enacted November 12, 2002, effective February 1, 2003.)

Personal Property Sale Procedures

- 2.825 Personal Property Sale Procedures - Storage.** It shall be the duty of the police department, whenever a motor vehicle, animal, other than a dog, or other personal property shall be found without an owner claiming the same, or shall, by reason of arrest, confiscation, impoundment, or in any other manner, come into the hands of the police department, to either place the same on the city hall grounds for further disposition, or store the same with some reputable motor vehicle storage yard, garage, pound or other storage place pending investigation of ownership.

(Section 2.825 amended by Ordinance No. 17187, enacted October 7, 1974.)

- 2.830 Personal Property Sale Procedures - Investigation and Notification.**

- (1)** The police department, on finding a motor vehicle or other personal property, or coming into possession of the same, shall make diligent inquiry of all persons as to the name and address of the owner, conditional vendor, mortgagee or any person interested therein and shall examine the motor vehicle or other personal property for a license number, motor number, serial number, make and style, and any other information on the motor vehicle, animal or personal property which will aid in the identification of the owner, conditional vendor, mortgagee or other interested person.
- (2)** Subsequent to the investigation provided herein, and when under all the circumstances, including but not limited to the nature and value of the property, and the manner in which it came into the police department's possession, the chief of police is satisfied that a person entitled to possession has been found, the property may be released forthwith to that person upon payment of any of the applicable costs as set forth in section 2.835(2). In all other cases, if the owner or conditional vendor of the property referred to in this chapter or mortgagee or other person interested therein is found and identified, that person shall be immediately notified by certified letter that the personal property is held by the police department, the date the property came into the possession of the department, and that the property will be sold at public auction at the city hall grounds, the place of storage, or any other designated location within the city to the highest bidder for cash, which sale shall not be held earlier than 30 days from the date the personal property came into the possession of the police department, and in any event not until 10 days have elapsed from the mailing of the certified notices.

(Section 2.830 amended by Ordinance No. 17187, enacted October 7, 1974; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

- 2.835 Personal Property Sale Procedures - Preceding Sale.**

- (1)** If after 60 days from the day the personal property valued at \$25 or more (other than any impounded motor vehicle) comes into the

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possession of the police department, the owner, conditional vendor, mortgagee or other person interested therein cannot be found after due diligence as herein set out, then the chief of police shall cause to be posted in three public places in the city and published at least once in a newspaper printed and published in the county, a notice generally describing the property, the address and telephone number where the property can be claimed, the final date before which the property may be claimed, and a statement in substantially the following form: "The Eugene Police Department has in its physical possession the unclaimed personal property described below. If you have any ownership interest in any of that unclaimed property, you must file a claim with the Eugene Police Department within 30 days from the date of publication of this notice, or you will lose your interest in that property."

- (2) If the owner, conditional vendor, mortgagee or other person interested therein applies to the chief of police for the return of the property before a sale has taken place, and submits to the chief of police satisfactory evidence of his or her interest and pays the costs in the seizing and holding of the motor vehicle or other personal property, the chief of police, being satisfied with the claim, shall surrender the same to the claimant.
- (3) If no person appears and establishes ownership of or interest in the property prior to the date set forth in the notice, the city shall sell the property pursuant to section 2.840, or upon approval of the city manager shall transfer the property to public use by entering it on the city's fixed asset inventory. If the personal property is a weapon described in chapter 4 of this code declared unlawful to possess by state law, it shall be destroyed by the chief of police.
- (4) Notwithstanding sections 2.835(1) and (3), if a property owner waives ownership interest in property that is in the police department's possession for more than 60 days, upon the expiration of the 60 days, the city shall sell the property pursuant to section 2.840, discard the property that has no monetary value, or upon approval of the manager transfer the property to public use by entering it in the city's fixed asset inventory. When personal property is not seized as evidence, the 60 days begins to run when the property is placed in a Lane County Jail locker by a Eugene police officer or when it is taken by the police during an arrest. When personal property is seized as evidence, the 60 days begins to run when the case is fully adjudicated.

(Section 2.835 amended by Ordinance No. 17187, enacted October 7, 1974, Ordinance No. 18789, enacted May 13, 1981; Ordinance No. 19170, enacted August 8, 1983, Ordinance No. 19462, enacted April 13, 1987; administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998; amended by Ordinance No. 20464, enacted October 25, 2010, effective November 29, 2010; and amended by Ordinance No. 20485, enacted January 23, 2012, effective February 24, 2012.)

2.840 Personal Property Sale Procedures - Sale, Generally.

- (1) If no claim has been made before the time set for the sale of the personal property, the chief of police shall, at the time appointed, within view of the property to be sold, offer the property for sale to the highest bidder for cash. In default of bids from others, the chief of police may dispose of the property in his or her discretion without the necessity of taking further bids.
- (2) On the consummation of a sale, the chief of police shall make, execute and deliver on behalf of the city, a bill of sale signed by the chief of police, conveying the property in question to the purchaser, and delivering possession of the property to the purchaser.
- (3) The sale and conveyance shall be without redemption. The proceeds of the sale shall be first applied upon storage, towing bills, publication fees and other costs of the keeping and sale, and the balance shall go to the general fund of the city. No claim for storage and towing shall exceed the proceeds from the sale of personal property.
- (4) The owner or operator of a place in which personal property has been stored by the police department shall not release a vehicle, animal or property without first having obtained a written release from the police department.

(Section 8.40 administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

2.845 Personal Property Sale Procedures - Places of Storage to File Monthly Inventories. The owner or operator of any place in which personal property referred to in this chapter has been stored by the police department shall, at least 15 days prior to the date of the police auction scheduled for his or her storage place or upon request of the police department, render to the police department an inventory of all property presently held. The inventory shall include the date of impound, license numbers, make, model and other descriptive information regarding the personal property.

(Section 2.845 amended by Ordinance No. 17187, enacted October 7, 1974; administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

2.850 Personal Property Sale Procedures - Disposition of Animals. In the case of perishable goods and animals, other than dogs, if the owner cannot be ascertained and public sale is impractical because of potential spoilage, insufficient or nonexistent sale value, or similar reasons, the chief of police may turn over the goods or animal to a governmental or charitable institution for humane and appropriate distribution.

2.855 Personal Property Sale Procedures - Special Disposition of Personal Property.

- (1) The city may cause any motor vehicle or other personal property coming into the hands of the police department to be appraised by an appraiser qualified by the police department. If a motor vehicle is appraised at \$100 or less, or any other personal property is appraised

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at less than \$25, the chief of police may prepare a Notice of Intent to Junk or Dismantle the motor vehicle or other personal property. Such notice shall contain a description of the motor vehicle or other personal property; its license, motor, serial or other identification number; its location; its appraised value; and notification that the motor vehicle or other personal property will be junked or dismantled after 10 days from the date of the notice. The chief of police shall post the notice in three public places in the city.

- (2) If the owner, conditional vendor, mortgagee, or other person interested in the motor vehicle or other personal property is found or identified, a copy of the notice of intent to junk or dismantle shall be mailed to such owner, conditional vendor, mortgagee, or other interested person.
- (3) If, after 10 days from the preparation of the notice of intent to junk or dismantle, or 10 days from the mailing of the notice to the owner, conditional vendor, mortgagee or other person interested therein, whichever is later,
 - (a) the owner, conditional vendor, mortgagee or other interested person, after exercise of due diligence, cannot be found, or
 - (b) the owner, conditional vendor, mortgagee, or other interested person, after notification as prescribed in subsection (2) of this section, has not reclaimed the motor vehicle or other personal property, or
 - (c) the owner, conditional vendor, mortgagee, or other interested person, has signed a release, under oath, disclaiming any future interest in the motor vehicle or other personal property, any and all future rights of ownership or interest of any owner, conditional vendor, mortgagee or other interested party in such motor vehicle or other personal property shall be deemed waived.
- (4) Upon expiration of the time period prescribed in subsection (3) of this section, the city may, without notice or public auction, junk or dismantle the motor vehicle or other personal property and, if required, execute a bill of sale as prescribed by subsection 2.840(2) of this Code.

(Section 2.855 added by Ordinance No. 17187, enacted October 7, 1974; and amended by Ordinance No. 20485, enacted January 23, 2012, effective February 24, 2012.)

Real Property Disposal Procedures

2.860 **Real Property Disposal - Definitions.** In sections 2.861 to 2.874 of this code, except where the context clearly indicates a different meaning, the following words and phrases mean:

City manager. The city manager of the city of Eugene, or the manager's designee.

Development plan. Any written plan adopted by the council which designates real property for disposal in furtherance of city programs or public purposes. Such adopted plans presently include, but are not limited to, the Mahlon Sweet Airport Master Plan and the Housing Dispersal Policy Plan and include any other plans adopted in the future.

Disposal/dispose. The sale, lease, exchange or donation of real property.

Lease. A tenancy in real property granting the right of possession for a specified term for consideration. "Lease" does not include a permit, license, or franchise to use any city-owned or controlled real property or public way.

Real property. Any interest in real property owned by the city of Eugene within or without the geographic limits of the city.

(Section 2.860 added by Ordinance No. 19447, enacted January 14, 1987.)

2.861 **Real Property Disposal - Scope.** Real property owned by the city shall be disposed of as provided in sections 2.860 to 2.874 of this chapter unless another procedure is specified in this code or in a council- approved intergovernmental agreement. Nothing in sections 2.860 to 2.874 of this chapter shall require additional procedures or limit the authority of the city manager to issue any permits or licenses authorized by this code.

(Section 2.861 added by Ordinance No. 19447, enacted January 14, 1987; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

2.862 **Real Property Disposal - Subject to Development Plan.**

(1) Except as provided in subsection (2), all real property acquired and held by the city for a purpose specified in a development plan may be disposed of for that purpose by any of the following procedures:

- (a) **Public disposal.** After publishing notice of a public sale by auction or written proposal in which the parcels offered are identified and the terms and conditions of sale or the criteria for proposal selection are stated, the city manager may dispose of real property according to the best bid or proposal. The decision of the city manager shall be final.
- (b) **Private disposal.** The city manager may privately solicit proposals and negotiate with any person for the disposal of real property. Upon receiving an acceptable proposal, the city manager shall

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notify the council in writing of the manager's intention to accept the proposal. Within ten days after receiving notice the council shall decide to review the proposed transactions. If the council does not decide to review the proposed transaction within the ten days, the city manager may accept the proposal. Upon receiving notice of the proposed transaction the council may waive review of the transaction in which event the city manager may immediately accept the proposal. After its review the council may affirm, modify or reject the proposed transaction. The decision of the council shall be final.

- (2) When real property subject to a development plan is determined by the city manager to be suitable for tenant occupancy and that occupancy is consistent with the development plan, the city manager may lease all or any part of it to another for a term not to exceed 20 years at fair market rent. The city manager may require additional lease terms and conditions consistent with the public health, safety and welfare. The decision of the city manager shall be final.

(Section 2.862 added by Ordinance No. 19447, enacted January 14, 1987; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

2.864 Real Property Disposal - Surplus Property.

- (1) The city manager may declare any real property surplus when it is not needed for a public purpose or when it may be put to private use until it is needed for a public purpose. Upon such declaration, the property shall be disposed of as provided in this section.
- (2) The city manager shall notify the council in writing of the declaration of surplus real property, and the proposed general terms and conditions for disposition. This notice shall be given not less than ten days before the property is offered for disposal. Within the ten days after receiving notice the council shall decide to review any part of the city manager's designation. If the council elects to review any of the city manager's designations it may modify the proposed terms and conditions for disposal or rescind any part of the declaration of surplus property. If the council fails to act within 30 days of the city manager's notice, or after the council modifies the city manager's proposal, the city manager shall give public notice of the intention to dispose of the property. The notice shall be published once a week for two consecutive weeks in a newspaper of general circulation within the city and shall identify each parcel of real property, the general terms and conditions of disposal, and other relevant information.
- (3) Except when sold under subsection 2.864(4), after giving the notice required by subsection 2.864(2), the city manager may dispose of surplus real property when an offer is received which meets or exceeds the terms and conditions in the published notice. The city manager is not required to accept any offer unless the offer is found to be in the best interest of the city. Any offer received in excess of \$100,000 which the city manager proposes to accept shall be subject to council notice,

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- review and action as provided in paragraph 2.862(1)(b) of this chapter.
- (4) The city manager may dispose of surplus real property by competitive bid or auction after publishing notice which identifies each parcel to be offered and states the terms and conditions of disposal or the criteria for bid selection. The decision of the city manager shall be final.
 - (5) If no offers are accepted within 24 months of the manager's declaration of surplus, the property shall cease to be surplus property until redesignated by the city manager.
 - (6) Without complying with the procedures in this section, the city manager, on such terms and conditions as the city manager determines, may allow the occupant of real property being acquired to continue the occupancy.

(Section 2.864 added by Ordinance No. 19447, enacted January 14, 1987; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

2.868 Real Property Disposal - Governmental Transactions. Except when disposal occurs under section 2.862, the council may dispose of real property to any governmental entity without notice or hearing.

(Section 2.868 added by Ordinance No. 19447, enacted January 14, 1987.)

2.870 Real Property Disposal - Permits and Easements. The city manager is authorized to grant temporary or permanent permits or easements across city-owned real property if the city manager determines that such permit or easement will not unreasonably disrupt the intended public use of the property.

(Section 2.870 formerly section 2.019, added by Ordinance No. 19034, October 20, 1982; amended and renumbered by Ordinance No. 19447, enacted January 14, 1987; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

2.872 Real Property Disposal - All Other Property. Unless another procedure is specified in this code or in a council-approved intergovernmental agreement, a proposal acceptable to the city manager shall be presented to the council for its action.

(Section 2.872 added by Ordinance No. 19447, enacted January 14, 1987.)

2.874 Real Property Disposal - Regulations. By following the procedures in section 2.019 of this code the city manager may establish any regulations required to carry out the provisions of sections 2.860 to 2.872 of this chapter.

(Section 2.874 added by Ordinance No. 19447, enacted January 14, 1987; and administratively amended by Ordinance No. 19742, enacted January 14, 1991.)

Labor-Management Relations

2.876 Labor-Management Relations - Definitions. For the purposes of implementing collective bargaining procedures under the City Charter, in sections 2.878 to 2.896 of this Code:

Arbitration means the process whereby a third party makes a final and binding decision as to which of the final offers submitted by the parties to an interest dispute is most reasonable under this Code.

Bargaining agent means a labor organization certified under this Code as the exclusive representative of an appropriate bargaining unit for purposes of negotiating with the city under collective bargaining procedures.

Bargaining unit means a unit certified under this Code as appropriate but does not include supervisory or confidential employees. Professional employees may not be included in a bargaining unit of other employees unless the professionals so choose by majority vote.

City includes the executive, legislative and administrative officers of the City of Eugene and their agents acting on behalf of the city directly or indirectly, including duly authorized supervisory employees.

City agent means the city manager, or any permanent supervisory employee designated by the city manager to act on behalf of the city in the collective bargaining process. In determining whether any person is acting as a city agent so as to make the city responsible for the agent's acts, the question of whether the specific acts performed were actually authorized or subsequently ratified shall not be controlling.

City employee includes any person regularly and permanently employed by the City of Eugene twenty hours a week or more but does not include supervisory employees, confidential employees, elected officials, persons appointed to serve on boards or commissions, persons temporarily employed by the city in a casual, seasonal or other temporary manner or persons temporarily employed by the city as an employer of last resort.

Confidential employee means an employee who assists and acts in a confidential capacity to a person who formulates, determines and effectuates management policies regarding collective bargaining.

Collective bargaining means the performance of the mutual obligation of the city and a bargaining agent representing city employees to meet at reasonable times and confer in good faith with respect to wages, hours and other terms and conditions of employment or the negotiation of an agreement, or any question arising thereunder, and the execution of a

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written contract incorporating any agreement reached if requested by either party. This obligation does not compel either party to agree to a proposal or require the making of a concession, nor does it revoke the city's rights and obligations under section 2.878 of this Code.

Employee representative means any individual selected by the employees in a bargaining unit to act as their agent in collective bargaining. In determining whether any person is acting as an employee representative of a bargaining agent so as to make the bargaining agent responsible for the person's acts, the question of whether the specific acts performed were actually authorized or subsequently ratified shall not be controlling.

Fair-share agreement means an agreement between the city and a certified bargaining agent whereby an employee who is not a member of the labor organization is required to make an in-lieu- of-dues payment to the labor organization. Such an agreement shall reflect the opinion of a majority of the employees in the bargaining unit choosing to vote.

Factfinding means the process in which an interest dispute is investigated by a duly appointed panel:

- (a) To reconcile or mediate the dispute confidentially between the parties, or
- (b) Failing this, to describe to the parties and the hearings official the issues and facts relating to the dispute and recommend which of the final offers submitted is most reasonable under this Code.

Hearings official means an impartial third party selected for a specified term of office to administer sections 2.878 to 2.896 of this Code as provided herein.

Interest dispute means a labor dispute arising between the city and a bargaining agent over the formulation of the terms of an initial labor agreement or over the renewal of the terms of an expiring or expired labor agreement.

Labor organization means any employee association or any organization in which city employees participate and which has for its purpose, in whole or in part, dealing with the city concerning wages, hours, and terms and conditions of employment.

Party includes but is not limited to individuals, persons, organizations, labor organizations, and the city. Any reference to the masculine gender shall be construed to include the feminine gender. Any reference to the singular tense may include the plural or references to the plural may include the singular.

Professional employee means:

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- (a) A city employee engaged in work:
 - 1. Predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical or physical work;
 - 2. Involving the consistent exercise of discretion and judgment in its performance;
 - 3. Of such character that the output produced or the result accomplished cannot be standardized in relation to a given period of time;
 - 4. Requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning, as distinguished from a general academic education or from apprenticeship or from training in the performance of routine mental, manual or physical processes, or
- (b) An employee who:
 - 1. Has completed the courses of specialized instruction and study described in (a)4 above; and
 - 2. Is performing related work under the supervision of a professional person to qualify as a professional employee as defined in (a) above.

Strike means a city employee's refusal in concerted action with others to report for duty, or the employee's willful absence from the position or stoppage of work, or the employee's absence in whole or in part from the full, faithful or proper performance of the duties of employment, for the purpose of inducing, influencing or coercing a change in the conditions, compensation, rights, privileges or obligations of city employment; however, nothing shall limit or impair the right of any city employee to lawfully express or communicate a complaint or opinion on any matter related to the conditions of employment. Picketing activity for the purpose of inducing, influencing or coercing a change in a lawful collective bargaining agreement is striking. The city is not obligated to provide employment during a strike.

Supervisory employee means any individual having authority in the interest of the city to hire, transfer, suspend, lay-off, recall, promote, discharge, assign, reward or discipline other employees, or having responsibility to direct them, or to adjust their grievances or effectively to recommend such action, if in connection therewith, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment. However, the exercise of any function of authority enumerated in this definition does not necessarily require the conclusion that the individual so exercising that function is a supervisor.

(Section 2.876 added by Ordinance No. 17796, enacted October 25, 1976; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

2.878 Labor-Management Relations - Purpose. The city council declares that it is the public policy of the city and the purpose of sections 2.876 to 2.896 of

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this Code to promote harmonious, peaceful and cooperative relationships between the city and its employees, and to protect the public by assuring, at all times, the responsive and effective operation of government. Inasmuch as unresolved disputes in the public service are injurious to the public, the city, and its employees as well, adequate means are herein provided for preventing or minimizing disputes between the city and its employees, and for resolving such disputes when they occur. Neither this Code nor any agreement pursuant thereto revokes any constitutional, common law, charter, statutory or traditional right or responsibility of the city to act unilaterally to:

- (a) Determine the overall mission of the city as a unit of government;
- (b) Maintain and improve the efficiency and effectiveness of city operations;
- (c) Determine the services to be rendered, the operations to be performed, the technology to be utilized or the matters to be budgeted;
- (d) Determine the overall methods, processes, means, job classifications or personnel by which city operations are to be conducted;
- (e) Direct, supervise or hire employees;
- (f) Promote, suspend, discipline, discharge, transfer, assign, schedule, retain or layoff employees;
- (g) Temporarily relieve or layoff employees from duties because of lack of work or funds, or under conditions where the city determines continued work would be inefficient or non-productive;
- (h) Take whatever other actions may be necessary to carry out the public policy not otherwise specified herein or limited by a collective bargaining agreement; or
- (i) Take actions to carry out the mission of the city as the governmental unit in situations of emergency.

Nothing in this Code limits the discretion of the city to voluntarily confer with city employees or employee representatives in the process of developing policies to effectuate or implement any of the above enumerated rights.

(Section 2.878 added by Ordinance No. 17796, enacted October 25, 1976.)

2.880 Labor-Management Relations - Employee Rights. City employees shall have the right to self-organization, to form, join or assist labor organizations, and to bargain collectively through representatives of their own choosing with respect to wages, hours and other terms and conditions of employment.

(Section 2.880 added by Ordinance No. 17796, enacted October 25, 1976.)

2.882 Labor-Management Relations - Unfair Labor Practices.

- (1)** It is an unfair labor practice for the city or its designated representative to:
 - (a) Interfere with, restrain, or coerce city employees in the exercise of their rights guaranteed in sections 2.876 to 2.896 of this Code;
 - (b) Dominate, interfere with, or assist in the formation, existence or administration of any labor organization. The expressing of any views, argument, or opinion, or the dissemination thereof, whether

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- in written, printed, graphic, or visual form, shall not constitute or be evidence of an unfair labor practice under this subsection or (a) above if such expression contains no threat of reprisal or force, or promise of benefit. Nothing in this Code prohibits a fair-share agreement between the city and an exclusive bargaining agent or the deduction of a payment-in-lieu-of-dues from the wages of city employees affected by such an agreement.
- (c) Discriminate in hiring, tenure, or any term or condition of employment, in order to encourage or discourage membership in any labor organization;
 - (d) Refuse to meet at reasonable times and bargain collectively in good faith with employee representatives of the bargaining agent as required in sections 2.876 to 2.896 of this Code;
 - (e) Discharge or otherwise discriminate against any employee because the employee has filed charges or given testimony under sections 2.876 to 2.896 of this Code;
 - (f) Communicate directly or indirectly during the period of negotiations with employees in the bargaining unit other than the designated employee representatives regarding issues under negotiation except for matters relating to the performance of the employee work involved. This restriction does not prohibit the processing of grievances, the issuance of a public statement by the hearings official under the provisions of section 2.888(9), or the issuance of press releases under ground rules negotiated between the city and the bargaining agent;
 - (g) Refuse to reduce to writing or refuse to sign a collective bargaining agreement reached under sections 2.876 to 2.896 of this Code;
 - (h) Refuse to accept an arbitration decision arrived at under the provisions of sections 2.876 to 2.896 of this Code.
- (2)** It is an unfair labor practice for a labor organization or its agents to:
- (a) Restrain or coerce:
 - 1. Employees in the exercise of their rights guaranteed in sections 2.876 to 2.896 of this Code, except that this subsection does not impair the right of a labor organization to prescribe its own reasonable rules with respect to the acquisition or retention of membership therein; or
 - 2. The city in selection of its agents for the purpose of entering into the collective bargaining process.
 - (b) Cause or attempt to cause the city to discriminate against an employee in violation of this section. The expressing of any views, argument, or opinion, or the dissemination thereof, whether in written, printed, graphic or visual form, shall not constitute or be evidence of an unfair labor practice under subsection (a) or this subsection if such expression contains no threat of reprisal or force, or promise of benefit;
 - (c) Refuse to meet at reasonable times and bargain collectively in

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- good faith as required in sections 2.876 to 2.896 of this Code;
 - (d) Communicate directly or indirectly during the period of negotiations with other than the city agent regarding issues under negotiation for the purpose of influencing or with the effect of influencing issues under negotiation. This restriction does not prohibit the processing of grievances, the issuance of a public statement by the hearings official under the provisions of section 2.888(9), or the issuance of press releases by the parties under any bargaining ground rules negotiated between the city and the bargaining agent(s);
 - (e) Refuse to accept an arbitration decision arrived at under the provisions of sections 2.876 to 2.896 of this Code;
 - (f) Refuse to reduce to writing or refuse to sign a collective bargaining agreement reached under the provisions of sections 2,876 to 2.896 of this Code.
- (3)** A party alleging injury by an unfair labor practice may file a written complaint with the hearings official within thirty (30) days of the occurrence or knowledge of the unfair labor practice. The filings shall be accompanied by a recitation of the information pertinent to the complaint and known to the complainant.
- (4)** Upon receipt of a complaint, the hearings official shall:
- (a) Cause to be served upon the person charged with the unfair labor practice a copy of the complaint within ten (10) days of the filing of the complaint. Copies of the complaint shall also be sent to the city and any bargaining agent who is an immediate interested party to the complaint;
 - (b) Determine whether a hearing of the complaint is warranted, dismissing the complaint if a hearing is not warranted;
 - (c) Set a time and place for the hearing if it is warranted, and
 - (d) Make a preliminary finding and notify the parties of it at least ten (10) days prior to the hearing. If all parties accept the hearing official's preliminary finding, then the hearing may be waived.
- (5)** If, as a result of the hearing, the hearings official finds that a party named in the complaint has engaged in or is engaging in any unfair labor practice alleged in the complaint, the hearings official shall:
- (a) State the findings of fact and the basis therefor in writing;
 - (b) Issue and cause to be served on such party an order to cease and desist from the unfair labor practice. Copies of the order shall be forwarded to the city and any other immediate interested party;
 - (c) Take action to deter continuation or repetition of the practice such as the reinstatement of employees with or without back pay; the assessment of fines, awarding damages to injured parties including costs of legal counsel representing the injured parties in the dispute; and other reasonable actions necessary to effectuate the purposes of this Code;
 - (d) Filings of complaints on a violation of section 2.882(1) (d) or 2.882(2)(c) shall be within ten (10) days of the occurrence or

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knowledge of the violation. After a complaint of violation of section 2.882(1)(d) or (2)(c) is filed, an order or dismissal shall be served within twenty (20) days of the filing, unless otherwise stipulated by the city agent and bargaining agent.

- (6) If the hearings official finds that the party named in the complaint has not engaged in an unfair labor practice, the hearings official dismiss the complaint.
- (7) Any party aggrieved by an order under subsections (5) or (6) of this section may petition the hearings official for reconsideration of the order within ten (10) days of its issuance. Such a petition for reconsideration shall be accompanied by an affidavit stating the basis for the petition. The hearings official shall, within ten (10) days, either set a date for rehearing the complaint or dismiss the petition.

(Section 2.882 added by Ordinance No. 17796, enacted October 25, 1976.)

2.884 Labor-Management Relations - Bargaining Unit Determination. When a question arises concerning the determination of an appropriate bargaining unit:

- (a) Determination of the unit shall be upon petition filed with the hearings official by the city or a labor organization.
- (b) Within thirty (30) days after receiving such a petition and after notice to all interested parties, the hearings official shall conduct a hearing and receive evidence pertaining to the petition. Within thirty (30) days after the hearing, the hearings official shall designate the bargaining unit. In designating the unit, the hearings official shall take into consideration, along with other relevant factors, the organizational structure of the city government, the effect of over-fragmentation of bargaining units on efficient administration of government, the existence of a community of interest among city employees, including the similarity of duties, skills, interests and working conditions of the employees, the history and extent of city employee organization, and the recommendations of the parties involved.
- (c) Subsections (a) and (b) above do not preclude the city and the labor organization from reaching a mutual agreement on designation of an appropriate bargaining unit. Such an agreement shall be filed with the hearings official and receipt of the agreement shall be confirmed and certified by the hearings official, providing no other affected labor organization or affected employee gives notice that his or her rights have been violated under this section. The hearings official may remand unit determinations to the affected parties before formally hearing or certifying such determinations if it is found that any affected party has not conferred in good faith or been given an opportunity to confer in good faith in an attempt to resolve the question prior to the request for formal hearing. Affected parties for the purposes of this subsection means the city, a bargaining agent, other affected labor organizations or affected city employees.

(Section 2.884 added by Ordinance No. 17796, enacted October 25, 1976; and administratively

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amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

2.886 Labor-Management Relations - Certification of Bargaining Agent.

- (1) If a question arises concerning representation, the hearings official shall investigate and conduct a hearing on a petition that has been filed by:

 - (a) A labor organization alleging that 30 percent of the employees in a bargaining unit desire to be represented for collective bargaining by a bargaining agent;
 - (b) A labor organization alleging that 30 percent of the employees in a bargaining unit assert that the present certified bargaining agent is no longer desired as the representative of the majority of the employees in the unit;
 - (c) The city alleging that one or more labor organizations has presented a claim to the city requesting recognition as the bargaining agent of the same bargaining unit; or
 - (d) An employee or group of employees alleging that 30 percent of the employees in a bargaining unit assert that the bargaining agent is no longer desired as the representative of the majority of employees in the unit.
- (2) After investigation and conduct of the hearing, if the hearings official finds the allegations in the petition are true, the hearings official shall conduct an election by secret ballot within a reasonable period of time, at place(s) convenient for the employees of the bargaining unit, and:

 - (a) The hearings official shall place on the ballot only those labor organizations requested to be placed on the ballot by more than 10 percent of the employees in the bargaining unit;
 - (b) The ballot shall contain an option for marking "no representation";
 - (c) The hearings official shall determine who is eligible to vote in the election, consistent with this Code. The city shall provide a complete list of all such eligible voters and their addresses and job classifications to each candidate organization on the ballot a least twenty (20) days before the scheduled election is to occur;
 - (d) The labor organization that receives the majority of the votes cast in the election shall be certified by the hearings official as the exclusive representative;
 - (e) In any election, if there are more than two choices on the ballot and none of the choices receives a majority of the votes cast, a runoff election shall be conducted. The ballot in the runoff election shall contain the two choices on the original ballot that receive the largest number of votes; and
 - (f) Hearings for the purpose of a consent election may be waived by the parties of interest.
- (3) No representation election may be conducted in any bargaining unit during a twelve (12) month period after such an election was held in the unit.

 - (a) Notwithstanding this section, the hearings official shall rule that a contract will not be given the effect of barring an election if it is

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found that:

1. Unusual circumstances exist under which the contract is no longer a stabilizing force, and
 2. An election should be held to restore stability to the representation of employees in the unit.
- (b) Where a lawful collective bargaining contract exists, a petition for a representation election shall be filed not more than ninety (90) days and not less than sixty (60) days before the normal start of negotiations, except that, if the contract is for more than two years, the petition for election may be filed any time more than two years after the effective date of the contract, but not later than sixty (60) days prior to the start of negotiations.
- (4) A bargaining agent certified under this Code is the exclusive representative of the employees of the bargaining unit for the purposes of collective bargaining. Nevertheless, any agreement entered into involving union security including a fair-share agreement, shall safeguard the rights of non-association of an employee, based on bona fide religious tenets or teachings of a church or religious body of which the employee is a member. The employee shall pay an amount mutually agreed to but not to exceed union dues and initiation fees and assessments, if any, to a non-religious charity or to another charitable organization mutually agreed upon by the employee affected and the representative of the bargaining agent to which the employee would otherwise be required to pay dues. The employee shall furnish written proof to the city that the payment has been made.
- (5) No agreement may be reached compelling union membership.

(Section 2.886 added by Ordinance No. 17796, enacted October 25, 1976; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

2.888 Labor-Management Relations - Collective Bargaining Procedures.

- (1) The city and the bargaining agent shall provide for and make every reasonable effort to conclude negotiations, including provisions for an effective date, a reopening date, and an expiration date, at a time to coincide with the period during which the budget committee and city council decide on the operating budget of the city. The process of collective bargaining shall begin on or about November 15th in the last year of an agreement and shall normally conclude prior to the official adoption of the budget by the city council.
- (2) If after a reasonable, mutually agreed to period of negotiations, no agreement has been reached, either or both parties may request factfinding under this section. A "reasonable period of negotiations" may not exceed ninety (90) days unless the issues under negotiation are mutually determined to be of such complexity that they cannot be resolved within such limits; or, in the instance of negotiating an initial bargaining agreement between the city and a bargaining agent, time limits may extend beyond the ninety (90) day period to allow time for a full agreement to be developed between the parties. In the instance of

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an initial agreement between the city and a bargaining agent, mutual agreement on the period of negotiations shall be stipulated in the bargaining ground rules.

- (3) Either party or the parties jointly may notify the hearings official in writing that they are initiating factfinding. Each party shall submit a final offer to the other party by the expiration date of the negotiation period. These offers shall be officially filed with the city recorder and copies of the offers shall be forwarded to the hearings official and be preserved for the panel of factfinders. Such offers shall in form and content constitute a complete draft of a proposed collective bargaining agreement, unless both parties mutually agree to submit in lieu of complete drafts of offers for factfinding, package proposals on specific impasse items. If only package proposals on specific items are submitted, all items previously agreed upon shall be filed with the city recorder. Subsequent to this filing, the parties may continue to negotiate.
- (4) The panel of factfinders shall consist of three (3) members. One advocate shall be appointed by the city and one advocate shall be appointed by the bargaining agent. These appointments shall be made within four (4) days of the filing of the petition to proceed to factfinding. The two advocate members shall mutually appoint a third member within seven (7) days to be the chairperson on the panel of factfinders. No member of the panel of factfinders may be employed at that time by the city. Disinterested parties to the dispute shall be selected and whenever possible shall have experience in labor-management relations. The chairperson shall be a professional mediator or arbitrator recognized by the American Arbitration Association or by the Federal Mediation and Conciliation Service. Nothing in this section prohibits citizens of Eugene from appointment to the panel.

 - (a) If, after seven (7) days, a third member has not been mutually agreed upon, a list of five recognized neutrals shall be requested by the appointees from the Federal Mediation and Conciliation Service or its successor. Each appointee shall alternately delete a name from the list until one name remains. The order of deleting shall be determined by lot and shall not require more than one day to complete for each deletion. The remaining person shall become the chairperson of the panel of factfinders. The chairperson shall convene the panel for mediation or hearings within ten (10) days thereafter, at a designated location within the city.
 - (b) If a vacancy occurs on the panel, the vacancy shall be filled in the same manner as the panel member was chosen. The vacancy shall not impair the right of the remaining members to exercise all of the powers of the panel, except that no final selection under subsection (7) of this section shall be made by the panel until the vacancy has been filled.
- (5) From the time of appointment until such time as the panel makes its selection, there shall be no communication by the members of the panel

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with other parties other than the city agent and the employee representative(s) concerning recommendations for settlement of the dispute. This shall not preclude the panel from, on its own initiative, obtaining whatever information from whatever sources it deems appropriate to assist in its selection. The panel shall provide mediation assistance to the parties prior to the issuance of its findings of fact under subsection (6) of this section.

- (6)** The panel shall have ten (10) days from the conclusion of its last hearing to make its selection of the final offer.
- (7)** In so doing, the panel shall select the most reasonable, in its judgment, of the final offers submitted by the parties. The panel may take into account only the following factors:

 - (a) Past collective bargaining contracts between the parties, including the bargaining that led up to such contracts;
 - (b) Comparison of wages, hours and terms and conditions of employment of other employees doing comparable work, giving consideration to factors peculiar to the market area and the classifications involved;
 - (c) Comparison of wages, hours and terms and conditions of employment as reflected in municipalities in general, and in similar municipalities reasonably proximate to the city; and
 - (d) The interests and welfare of the public, the ability of the city to finance economic adjustments and the effect of such adjustments on the normal standard of city services.
- (8)** The panel may not compromise or alter the final offer that it selects. Selection of an offer shall be based on the content of that offer, and no consideration may be given to, nor may any evidence be received concerning, the collective bargaining in this dispute, or offers of settlement not contained in the offers submitted to the city recorder unless there is mutual agreement to submit package proposals on specific impasse items. In such an instance, the panel shall consider all previously agreed upon items filed with the city recorder, integrated with the specific impasse items to determine the single most reasonable offer.
- (9)** The offer selected by the panel, integrated with previously agreed upon items filed with the city recorder, constitutes the findings and recommendations of the panel. The panel shall explain in writing its selection to the parties in the dispute. The findings and explanation shall be tendered forthwith to the parties and to the hearings official. The parties shall notify the hearings official of the status of any negotiations ten (10) days after receiving the findings of fact. If the notice indicates that one or both of the parties do not accept the panel's recommendations or that the parties have not otherwise settled the dispute, the hearings official shall publicize the selection final offer and the written explanation of findings of fact between ten (10) and twenty (20) days after receiving the recommendation.
- (10)** If, within twenty (20) days after receiving the factfinding award neither

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party to the award files an exception to the award as provided in ORS 33.320 for exception to arbitration awards, the award shall be deemed valid.

- (11)** Within thirty (30) days after receiving the factfinding report, the city manager shall inform the city council of the status of contract negotiations, including any mutual settlement of a dispute or any continued impasse proceedings under this Code.
- (12)** If either party refuses to accept the panel's selection, the bargaining agent may file a ten (10) day notice of intent to strike. A copy of the notice specifying the time and date for commencement of the strike shall be delivered forthwith by registered or certified mail to the hearings official and to the city.
- (13)** If a strike occurs or is threatened, the city manager shall determine whether that strike or threatened strike creates threat or danger to the public health or safety. If the city manager determines that the strike or threatened strike creates a threat or danger to the public health or safety, the city manager shall so declare and notify the hearings official forthwith.
- (14)** Upon declaration and notification by the city manager that a strike or threatened strike creates a threat or danger to the public health or safety, the hearings official shall conduct a hearing within three (3) days after receipt of notification by the city manager, to determine the validity of the city manager's declaration. If the city manager's declaration is invalidated, the provisions of subsection (12) above shall apply.
- (15)** Upon determining the city manager's notification to be valid, the hearings official shall order the immediate cancellation of the notice to strike or the immediate termination of the strike. Further, the hearings official shall:
 - (a) Declare the decision of the factfinding panel binding upon the parties, or
 - (b) Order the parties to submit to final and binding arbitration within ten (10) days.

Such arbitration shall be conducted under the procedures established in this section for factfinding proceedings, except the hearing shall be conducted by one recognized mediator or arbitrator selected mutually by the city agent and bargaining agent or by deleting names from a list

of three (3) recognized neutrals as provided in subsection (4)(a) above. The selection of the final offer by the arbitrator shall be final and binding on both parties and shall be incorporated into a labor agreement.

- (16)** The arbitration award shall be deemed valid unless either party files an exception within twenty (20) days after receiving the arbitration award, as provided in ORS 33.320.
- (17)** Nothing contained in this Code shall limit or prohibit a collective bargaining agreement which may cover a period in excess of one year or which may provide for renegotiating only of parts thereof relating to direct or indirect monetary benefits to city employees.

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- (18)** Time limits relating to collective bargaining may be waived by mutual agreement of the parties.

(Section 2.888 added by Ordinance No. 17796, enacted October 25, 1976 and amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

2.890 Labor-Management Relations - Strikes.

- (1)** No person may declare, authorize or participate in a strike of city employees except as expressly permitted under section 2.888 of this Code. Persons striking under section 2.888 of this Code shall terminate the strike immediately upon order of the hearings official to do so.
- (2)** When it is alleged in good faith by the city that a person has declared, authorized or participated in a strike of city employees in violation of this Code, the city may petition the hearings official for a declaration that the strike is or would be in violation of this Code and for issuance of an order to terminate the strike.
- (3)** City employees employed in police and fire services may not strike. Twenty (20) days after receiving the factfinding decision involving a bargaining unit consisting of city employees employed in police and fire services as provided in section 2.888 of this Code, the factfinding selection shall become a binding arbitration award if no exceptions to the decision have been filed in Circuit Court.

(Section 2.890 added by Ordinance No. 17796, enacted October 25, 1976.)

2.892 Labor-Management Relations - Selection of Hearings Official.

- (1)** The hearings official shall be selected by the city agent and certified bargaining agents for a term of three (3) years. The hearings official may be removed from office prior to the expiration of the term by a unanimous vote of the parties. A term of office shall extend from the time of appointment until June 30th of the third year of such appointment.
- (2)** Within sixty (60) days after the effective date of sections 2.876 to 2.896 of this Code, or within thirty (30) days after the hearings official's position is vacated, the city agent and the bargaining agents shall meet and nominate three (3) persons each, from which the hearings official shall be selected by unanimous vote.
- (3)** If the parties are unable to unanimously select a hearings official within sixty (60) days after the effective date of sections 2.876 to 2.896, or within thirty (30) days after the position of hearings official is vacated, the city shall appoint a representative and the certified bargaining agents shall jointly appoint a representative. A third and impartial representative, experienced in public and private sector labor relations, shall be appointed by the Federal Mediation and Conciliation Service or its successor. The persons thus appointed shall request a list of ten (10) impartial persons experienced in labor relations from the Federal Mediation and Conciliation Service or its successor. Within one week of the receipt of the list, the three representatives shall select a hearings official from among the persons named on the list.

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- (4) Nothing in the Code precludes mutual agreement by the interested parties to a proceeding assigned to the hearings official by this Code to appoint an adversary representative for city employees and for the city and to conduct the proceeding with a tripartite panel.

(Section 2.892 added by Ordinance No. 17796, enacted October 25, 1976.)

2.894 Labor-Management Relations - Authority of the Hearings Official.

In addition to the powers of the hearings official to administer and enforce the procedures enumerated elsewhere in sections 2.876 to 2.892, the hearings official shall be empowered to establish or modify procedural rules consistent with those sections to assist in its administration and enforcement. The procedural rules shall become effective thirty (30) days after being published and after a hearing is held on the rules, allowing the city agent and bargaining agents an opportunity to comment on them.

(Section 2.894 added by Ordinance No. 17796, enacted October 25, 1976.)

2.896 Labor-Management Relations - Costs.

- (1) The hearings official's costs in conducting unfair labor practice hearings, bargaining unit determinations, certification or decertification elections, and other functions under sections 2.876 to 2.894 of this Code shall be determined by agreement between the city and the bargaining agents, except that costs of transcripts requested of a proceeding shall be borne by the party making the request.
- (2) The cost of the chairperson on the panel of factfinders and the costs of the arbitrator in section 2.888(3) and (15) shall be shared equally by the parties.
- (3) Costs of advocate members of a tripartite fact-finding panel shall be borne by the parties appointing the advocates.

(Section 2.896 added by Ordinance No. 17796, enacted October 25, 1976, and amended by Ordinance No. 17817, enacted December 20, 1976.)

Cooperative Housing Program

2.910 **Low Income Housing Tax Exemption - Definitions.** For purposes of sections 2.912 to 2.922 of this code, the following words and phrases mean:

City manager. The city manager of the city of Eugene, or the manager's designee.

Eligible corporation. A corporation which is exempt from income taxes under 26 U.S.C. 501(c)(3) or (4) as amended before December 1, 1984, and which demonstrates that upon liquidation, the assets of the corporation are required to be applied first in payment of all outstanding obligations, and the balance remaining, in cash and kind, to be distributed to corporations exempt from taxation and operated exclusively for religious, charitable, scientific, literary or educational purposes or to the State of Oregon.

Eligible property. Property within the limits of the city of Eugene which is: owned or being purchased by an eligible corporation; actually and exclusively used for the purposes described in 26 U.S.C. 501(c)(3) or (4); and, occupied by low income persons. For the purposes of this section property will be deemed to be occupied by low income persons if it is made available and reserved exclusively for low income persons and has been occupied by a low income tenant within the last six months. Only that portion of the real property and improvements located thereon that is occupied by low income persons shall be eligible property.

Low income. Income at or below 60 percent of the area median income as determined by the State Housing Council based on information from the United States Department of Housing and Urban Development.

Owner or owned. The owner or purchaser of property for which an exemption is sought. For purposes of this section a corporation which has only a leasehold interest in property is deemed to be a purchaser of that property if:

- (a) The corporation is obligated under the terms of the lease to pay the ad valorem taxes on the real and personal property used to provide low income housing; or
- (b) The rent payable by the corporation has been established to reflect the savings resulting from the exemption from taxation.

(Section 2.910 added by Ordinance No. 19595, enacted February 13, 1989, effective March 15, 1989; and amended by Ordinance 19967, enacted June 13, 1994.)

2.912 **Low Income Housing Tax Exemption - Application for Exemption.**

- (1)** An eligible corporation seeking tax exemption for eligible property shall submit an application on a form provided by the city manager and pay the fee set by the city manager pursuant to section 2.020 of this code. The application shall contain the following information:

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- (a) The applicant's name, address, and telephone number;
 - (b) The assessor's property account number for each parcel of eligible property for which application is being made;
 - (c) The number of units and the exempted amount of each parcel which is in part eligible property, and the portion of the parcel which will be eligible property;
 - (d) A description of the property for which the exemption is requested;
 - (e) A description of the charitable purposes of the project and whether all or a portion of the property is being used for that purpose;
 - (f) A certification of income levels of low income occupants and a declaration that the income levels of all occupants of the property for which the exemption is being applied, at the time of the application or within 30 days of the filing of the application are at or below 60 percent of the area median income as determined by the State Housing Council based on information from the United States Department of Housing and Urban Development;
 - (g) A description of how the tax exemption will benefit project residents;
 - (h) A declaration that the corporation is an eligible corporation; and
 - (i) Such other information as requested by the city manager.
- (2) The applicant shall verify the information in the application by oath or affirmation.
- (3) An application which does not contain all the information required by this section and not accompanied by payment of the proper fees shall be returned. Any application returned for these reasons shall be deemed not to have been filed.
- (4) An application must be filed on or before the March 1 of the assessment year for which the exemption is applied, except that when the property designated in the application is acquired after March 1 and before July 1, the claim for that year shall be filed within 30 days after the date of acquisition.

(Section 2.912 added by Ordinance No. 19595, enacted February 13, 1989, effective March 15, 1989; amended by Ordinance No. 19854, enacted May 26, 1992; and Ordinance 19967, enacted June 13, 1994.)

2.914 Low Income Housing Property Tax Exemption - Review of Application.

- (1) Applications for the low income housing property tax exemption shall be filed with the city manager.
- (2) The city manager shall process each application and the manager shall make a written recommendation to the council in sufficient time to allow the council to act within 30 days of the filing of the application.
- (3) The city manager shall recommend approval and the council shall grant an annual exemption for any eligible property owned by an eligible corporation.
- (4) Upon receipt of the city manager's written recommendation, the council

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shall consider the application. At that meeting the council shall determine if the applicant qualifies for the exemption. If the council allows the exemption, the council shall adopt a resolution approving the application, which contains findings on the approval criteria and certifies to the Lane County Tax Assessor that all or a portion of the property for which application was made shall be exempt from the ad valorem property tax levy of the city of Eugene.

(Section 2.914 added by Ordinance No. 19595, enacted February 13, 1989, effective March 15, 1989.)

2.916 Low Income Housing Property Tax Exemption - Annual Application Renewal.

- (1)** Applicants who have received a property tax exemption under section 2.912 of this code must reapply each year, following the procedures set forth in section 2.912, no later than March 1 in order to be qualified for property tax exemption for the following tax year.
- (2)** Applicants for property tax exemption under section 2.912 of this code shall apply for, and may be eligible for property tax exemptions for tax years beginning on or after July 1, 1994, and before July 1, 2014.

(Section 2.916 added by Ordinance No. 19595, enacted February 13, 1989, effective March 15, 1989; amended by Ordinance No. 19854, enacted May 26, 1992; Ordinance 19967, enacted June 13, 1994; and Ordinance No. 20472 enacted April 13, 2011, effective May 15, 2011.)

2.918 Low Income Housing Property Tax Exemption - Regulatory Power. The city manager may issue rules necessary for the implementation of sections 2.910 to 2.922 by following the process set out in section 2.019 of this code.

(Section 2.918 added by Ordinance No. 19595, enacted February 13, 1989, effective March 15, 1989; and administratively amended by Ordinance No. 19742, enacted January 14, 1991.)

2.920 Low Income Housing Property Tax Exemption - Assessment Exemption.

- (1)** Property for which an application for a property tax exemption has been approved under the provisions of sections 2.910 to 2.922 shall be exempt from ad valorem taxation for one tax year beginning on or after July 1 of the year immediately following the calendar year in which construction is completed, determined by that stage in the construction process when, pursuant to ORS 307.330, the property would have gone on the tax rolls in the absence of the exemption. The exemption provided for herein shall be in addition to any other exemption provided by law.
- (2)** Applications for property tax exemption under section 2.912 shall apply to and may be approved for tax years beginning before July 1, 2014.

(Section 2.920 added by Ordinance No. 19595, enacted February 13, 1989, effective March 15, 1989; amended by Ordinance No. 19854, enacted May 26, 1992; Ordinance 19967, enacted June 13, 1994; and Ordinance No. 20472 enacted April 13, 2011, effective May 15, 2011.)

2.922 Low Income Housing Property Tax Exemption - Termination.

- (1) If, after a certificate of qualification approving the exemption has been filed with the county assessor, the city manager finds that non-compliance has occurred or that any provision of sections 2.910 to 2.922 is not being complied with, the city manager shall give notice in writing to the owner, mailed to the owner's last known address, of the proposed termination of the exemption. The notice shall state the reasons for the proposed termination of exemption and require the owner to appear before the council to show cause at a specified time, not more than 20 days after mailing of the notice, why the exemption should not be terminated.
- (2) If the owner does not appear or if the owner appears and fails to show cause why the exemption should not be terminated, the exemption shall be terminated. A copy of the termination shall be filed with the county assessor and a copy sent to the owner at the owner's last known address, within ten days after its adoption.
- (3) If the council finds that the non-compliance was due to circumstances beyond the control of the owner, and that the owner had been acting and could reasonably be expected to act in good faith and with due diligence, the council may continue the exemption or some portion for the duration of the current application.
- (4) All reviews of council action in denying, approving or terminating an exemption shall be governed by the procedures set forth in ORS 34.010 to 34.100 and correction of assessments and tax rolls and the evaluation of the property shall be in conformity with subsection (2) of ORS 307.680. The council's action on an exemption shall not be a land use decision for purposes of administrative review.

(Section 2.922 added by Ordinance No. 19595, enacted February 13, 1989, effective March 15, 1989.)

2.925 Municipal Condemnation - Moving Expense.

- (1) Whenever the city appropriates to a public use real property which is then occupied by any person or persons for residential purposes, the finance officer is authorized to compensate such persons the actual and reasonable costs, not exceeding \$200.00, of moving such persons' household goods, as approved by the city manager.
- (2) The moving cost expenditure is hereby declared to be a part of the cost of acquisition of real property for public purposes and/or for a public improvement and such moving cost is hereby declared to be a cost of any public improvement that may be charged to and assessed against real property improved thereby.

(Section 2.925 added by Ordinance No. 16270, enacted July 12, 1971.)

2.926 Municipal Condemnation - Housing Information. The city shall provide every person referred to in section 2.925, continuously from a date at least 60 days prior to the time the person is required to move until the person has

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found other housing, information as to other comparable housing currently available in the neighborhood where the taking occurs, or if none is available there, then as to comparable housing in the nearest neighborhood where it is available, or if none is available there, as to the nearest available housing.

(Section 2.926 added by Ordinance No. 16270, enacted July 12, 1971; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

2.930 Authorization. Pursuant to ORS 456.355 to ORS 456.370 the council does hereby authorize the exercise of the powers granted by those sections.
(Section 2.930 readopted by Ordinance No. 17451, enacted September 8, 1975.)

2.935 City Participation. Council does hereby declare its intention to utilize to the fullest extent within its capabilities, programs to provide decent, safe and sanitary housing for families and individuals who cannot obtain such shelter in the open market for 25 percent of the gross family income.

2.937 Low-Income Rental Housing Property Tax Exemption - Definitions.
For purposes of sections 2.938 to 2.940, the following words and phrases mean:

City manager. The city manager of the city of Eugene, or the manager's designee.

Lender. The provider of a loan secured by the recorded deed of trust or recorded mortgage made to finance the purchase, construction or rehabilitation of a property used for low income housing under the criteria listed in section 2.939 of this code.

Low-income. Income at or below 60 percent of the area median income as determined by the State Housing Council based on information from the United States Department of Housing and Urban Development.

(Section 2.937 added by Ordinance No. 19667, enacted February 12, 1990; amended by Ordinance 19967, enacted June 13, 1994, and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

2.938 Low-Income Rental Housing Property Tax Exemption - Application.

- (1)** An application for exemption from property taxes hereunder for low-income rental housing units constructed after February 12, 1990 shall be filed with the city manager, on a form provided by the city manager, which shall contain the following, if applicable:
 - (a)** A description of the property, or portion thereof, for which the exemption is requested;
 - (b)** A description of the purpose of the project and whether all or a portion of the property will be used for that purpose;
 - (c)** A certification of the income levels of low-income occupants;
 - (d)** A description of how the tax exemption will benefit project occupants;

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- (e) Evidence that, if unoccupied, the property is offered for rental solely as a residence for low-income persons, or is held for the purpose of developing low income rental housing;
 - (f) Evidence that, if occupied, the property is occupied solely as a residence for low-income persons;
 - (g) Evidence that the property is owned or being purchased by a non-profit corporation which meets the criteria for a public benefit corporation as described in ORS 65.001(37), or a religious corporation, as described in ORS 65.001(39);
 - (h) Evidence that the nonprofit corporation expends no more than ten percent of its annual income from residential rentals for purposes other than acquisition, maintenance or repair of residential rental property for low-income persons;
 - (i) A description of the plans for development of the property if the property is being held for future low income rental housing development; and
 - (j) Any other information required by the city manager.
- (2) The information contained in the application shall be verified by oath or affirmation of the applicant.
- (3) At the time the application is filed, the applicant shall submit the application fee established by the city manager pursuant to section 2.020 of this code. If the application is approved, the portion of the fee attributable to the county assessor's cost in administering this program shall be paid by the city to the county assessor. If the application is denied, the city shall retain that portion of the application fee attributable to its own administrative costs and shall refund the portion attributable to the county assessor's administrative costs to the applicant.
- (4) An application for exemption hereunder shall be filed on or before December 1 of the calendar year immediately preceding the first tax year for which an exemption is requested. However, if the property is acquired after November 1, the application shall be filed within 30 days after the date of acquisition, but no later than January 1 of the next calendar year.
- (5) An application which does not contain all the required information and is not accompanied by the required fee shall be returned. Any application returned for these reasons shall be deemed not to have been filed.

(Section 2.938 added by Ordinance No. 19667, enacted February 12, 1990; amended by Ordinance No. 19854, enacted May 26, 1992; Ordinance No. 20192, enacted March 13, 2000, effective April 12, 2000; and Ordinance No. 20472 enacted April 13, 2011, effective May 15, 2011.)

2.939 Low-Income Rental Housing Property Tax Exemption - Review, Approval or Denial of Application.

- (1) Upon receipt of the application and required fee, the city manager shall review the application and make a written recommendation thereon to the council in sufficient time to allow the council to act within 60 days from the date the application is filed.

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- (2) Upon receipt of the city manager's recommendation the council shall consider the application and grant or deny the property tax exemption. The city manager shall recommend approval of an application, and the council shall grant the exemption upon determining satisfactory compliance with or mitigation of the following criteria:
- (a) If unoccupied, the property:
 - 1. Is offered for rental solely as a residence for low income persons; or
 - 2. Is held for the purpose of developing low income rental housing;
 - (b) If occupied, the property, or portion thereof subject to the property tax exemption, is occupied solely as a residence for low-income persons;
 - (c) The required rent payment reflects the full value of the property tax exemption;
 - (d) The housing units on the property were constructed after February 12, 1990;
 - (e) The policies set forth in the Standards and Guidelines for Low-Income Rental Housing Property Tax Exemption adopted by council resolution;
 - (f) The proposed development is consistent with the city's housing dispersal policy;
 - (g) The proposed development does not cause displacement of low-income persons unless the city and developer can reach agreement on provisions (to be provided by the developer) that reflect satisfactory mitigation thereof;
 - (h) The proposed development does not cause destruction of historic properties (as defined in section 9.0500 of this code), except:
 - 1. Where development has proceeded according to historic property moving and demolition procedures as set forth in sections 9.8160, 9.8180 and 9.8185 of this code, or
 - 2. The property is granted an exception by the council; and,
 - (i) The proposed development is otherwise consistent with this code and adopted city regulations and policies.
- (3) As an alternative to an application considered under subsection (2) of this section, the city manager shall recommend approval of an application, and the council shall grant the exemption upon determining the applicant meets the criteria set forth in subsections (2)(e), (f), (g), (h) and (i) of this section and all the following criteria:
- (a) If unoccupied, the property is offered for rental solely as a residence for low-income persons, or is held for the purpose of developing low income rental housing;
 - (b) If occupied, the property, or portion thereof subject to the property tax exemption, is occupied solely as a residence for low-income persons;
 - (c) The applicant's application was filed prior to January 1, 2020;
 - (d) The property is owned or being purchased by a nonprofit

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corporation organized in a manner that meets the criteria for a public benefit corporation, as described under ORS 65.001(37) or for a religious corporation, as described under ORS 65.001(39); and

- (e) The property is owned or being purchased by a nonprofit corporation that expends no more than ten percent of its annual income from residential rentals for purposes other than acquisition, maintenance or repair of residential rental property for low-income persons, or for the provision of on-site child care services for the residents of the rental property.

For purposes of this subsection, a nonprofit corporation that has only a leasehold interest in property is considered to be a purchaser of that property if the nonprofit corporation is obligated under the terms of the lease to pay the ad valorem taxes on the real and personal property used in the rental activity on that property, or the rent payable has been established to reflect the savings resulting from the exemption from taxation.

- (4) At the meeting at which the city manager's recommendation is considered the council shall adopt a resolution approving the application and granting the property tax exemption, or adopt a resolution disapproving the application and denying the property tax exemption.
- (5) A resolution approving an application shall contain:
 - (a) The owner's name and address;
 - (b) A description of the housing unit;
 - (c) The legal description of the property or the county assessor's property account number;
 - (d) Any specific conditions upon which the approval is based;
 - (e) If only a portion of the property is approved, a description of the portion approved; and
 - (f) A certification that the property or portion thereof, is exempt from ad valorem taxation.
- (6) Within ten days from the date of its adoption, the city manager shall forward to the applicant a copy of the resolution adopted by the council approving an application, and, on or before April 1 following approval shall file a copy thereof with the county assessor. The copy shall contain therein or be accompanied by a notice explaining to the applicant the grounds for possible termination of the exemption prior to the end of the exemption period or thereafter, and the effects of termination.
- (7) A resolution denying an application shall state the reasons for denial, shall be forwarded to the applicant within ten days of its adoption, and shall inform the applicant of the right to appeal in the manner set forth in ORS 34.010 to 34.100.

(Section 2.939 added by Ordinance No. 19667, enacted February 12, 1990; amended by Ordinance No. 19854, enacted May 26, 1992; Ordinance 19967, enacted June 13, 1994; Ordinance No. 20192, enacted March 13, 2000, effective April 12, 2000; and Ordinance No.

2.940 Low-Income Rental Housing Property Tax Exemption - Termination.

- (1) If after a resolution approving an application for exemption hereunder has been filed with the county assessor the city manager finds that:
 - (a) Construction or development of the exempt property differs from the construction or development described in the application for exemption, or was not completed or on or before January 1, 2020, and no extensions or exceptions as provided in subsection (4) hereof have been granted; or,
 - (b) The applicant has failed to comply with the provisions of ORS 307.515 to 307.523, the provisions of this code, or any provisions of the standards and guidelines adopted by council resolution; or,
 - (c) The applicant has failed to comply with any conditions imposed in the resolution approving the application,the city manager shall recommend to the council, and notify the owner of the property, at the owner's last known address, and every known lender, at the last known address of each such lender, of the manager's recommendation that the exemption be terminated. The notice shall clearly state the reasons for the proposed termination, and shall require the owner to appear before the council, at a time specified in the notice, which shall be 20 days or more from the date the notice was mailed, to show cause, if any exists, why the exemption should not be terminated.
- (2) If the owner fails to appear before the council at the time specified in the notice, or if the owner appears and fails to show cause why the exemption should not be terminated, the city manager shall notify every known lender and shall allow each such lender not less than 30 days after the date the notice of the failure to appear and show cause is mailed to cure any noncompliance or to provide assure adequate to the council that all noncompliance shall be remedied. If the owner fails to appear and show cause why the exemption should not be terminated, and the lender fails to cure or give adequate assurance that any noncompliance will be cured, the council shall adopt a resolution terminating the exemption, which shall contain its findings in support thereof. Copies of the resolution shall be filed with the county assessor and mailed to the property owner, at the owner's last address, and to the lender, at the lender's last known address, within 10 days from the date adopted. If a determination is made that the exemption should continue as previously granted, the council shall adopt a motion rejecting the manager's recommendation, and notify the property owner of that action within 10 days from the date of the hearing.
- (3) All reviews of council action in denying an application or terminating an exemption shall be governed by the procedures set forth in ORS 34.010 to 34.100 and correction of assessments and tax rolls and the evaluation of the property shall be in conformity with subsection (2) of

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ORS 307.533. The council's action on an exemption shall not be a land use decision for purposes of administrative review.

- (4) Upon receipt of a request from the property owner, the council may, by resolution, extend the deadline beyond January 1, 2020 for completion of construction of the low-income rental housing for a period not to exceed 12 consecutive months, i.e., January 1, 2021, if it finds the failure to complete construction by January 1, 2020 was due to circumstances beyond the control of the owner, and that the owner had been and could reasonably be expected to act in good faith and with due diligence. If property granted an exemption hereunder is subsequently destroyed by fire or act of God, or is no longer capable of owner-occupancy due to circumstances beyond the control of the owner, the exemption shall cease, but no additional taxes shall be imposed upon the property under ORS 307.531 or 307.533.
- (5) The low-income housing granted an exemption by the council shall be exempt from ad valorem taxation for 20 successive years beginning with the tax year commencing immediately following the calendar year in which the application was approved. The exemption shall apply only to the land and improvements located thereon that are a part of the low-income rental housing unit, or land that is being held for future development of low income rental housing. The exemption shall be in addition to any other exemption provided by law. In the final year of low-income housing tax exemptions, applications for subsequent low-income housing tax exemptions for the property may be submitted. Such applications shall be processed in accordance with sections 2.937 to 2.940 of this code.
- (6) Any exemption granted by the council shall terminate immediately, without right of notice or appeal, in the event:
 - (a) The exempt property is being held for future development of low income rental housing and it is used for any purpose other than the provision of low income rental housing; or
 - (b) The county assessor determines that a change of use to other than that allowed has occurred for the housing unit, or portion thereof, or a declaration as defined in ORS 100.005 is presented to the county assessor or tax collector for approval under ORS 100.110.

Termination shall be in accordance with the provisions of ORS 307.531.

(Section 2.940 added by Ordinance No. 19667, enacted February 12, 1990; amended by Ordinance No. 19854, enacted May 26, 1992; Ordinance 19967, enacted June 13, 1994; Ordinance No. 20192, enacted March 13, 2000, effective April 12, 2000; and Ordinance No. 20472 enacted April 13, 2011, effective May 15, 2011.)

2.945 Multiple-Unit Housing – Property Tax Exemption.

- (1) The provisions of ORS 307.600 to 307.637 enable cities to grant local property tax exemptions for multiple-unit housing located in core and transit oriented areas designated by the city. There is a need and

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demand for better housing at rental rates or sale prices accessible to a broad range of the general public in the core and transit oriented areas which is not likely to be produced without this incentive. This incentive is intended to:

- (a) Stimulate the construction of transit supportive multiple-unit housing in the city's core and transit oriented areas to improve the balance between the residential and commercial nature of those areas, and to ensure full-time use of the areas as places where citizens of the community have an opportunity to live as well as work;
 - (b) Encourage the development of vacant or under utilized sites in core and transit oriented areas, rather than sites where sound or rehabilitable multiple-unit housing exists;
 - (c) Encourage the development of multiple-unit housing, with or without parking, in structures that may include ground level commercial space;
 - (d) Encourage the development of multiple-unit housing, with or without parking, on sites with existing single-story commercial structures;
 - (e) Encourage the development of multiple-unit housing, with or without parking, on existing surface parking lots; and
 - (f) Preserve existing publicly assisted housing that is affordable to low income persons by providing the incentives authorized in ORS 307.600 to 307.637 to existing multiple-unit housing that is subject to a low income housing assistance contract with an agency or subdivision of this state or the United States.
- (2)** The provisions of ORS 307.600 to 307.637 are hereby adopted as the city's multiple-unit housing property tax exemption program. Sections 2.945 and 2.947 of this code shall apply in the downtown area depicted on Map 2.945(2) attached to Ordinance 20479 and appended to chapter 2 of this code.
- (3)** Applications for property tax exemption hereunder shall be filed with the city manager on or before February 1 immediately preceding the first assessment year for which exemption is requested and shall be accompanied by an application fee. The application shall be processed in accordance with standards and guidelines adopted by administrative rule of the city manager. As used in this section and section 2.947 of this code and the standards and guidelines, "city manager" includes the manager's designee. The standards and guidelines adopted by the city manager in the manner described in section 2.019 of this code shall contain provisions relating the net financial benefit from the property tax exemption to the public benefits provided by the improvements, including a public benefit scoring system for evaluating applications.
- (4)** Upon receipt of the city manager's written recommendation on an application, the council shall consider the application, the city manager's written recommendation, and any written comments submitted during the 30 day comment period on the application at its

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next scheduled meeting. If the council fails to act on an application which has been timely referred to it as provided in the standards and guidelines within 180 days from the date it was filed, the application shall be deemed approved and processed thereafter in accordance with subsection (9) of this section.

- (5) At the meeting at which the city manager's recommendation on an application is considered, the council shall adopt a resolution approving the application and granting the property tax exemption, or adopt a resolution disapproving the application and denying the property tax exemption.
- (6) In order to approve an application, the council must find that:
 - (a) The project will provide multiple-unit housing of five or more units;
 - (b) The project is located within the boundaries of the downtown area described in subsection (2) above;
 - (c) The proposal could not financially be built "but for" the tax exemption;
 - (d) The applicant solicited comments from city-recognized affected neighborhood associations;
 - (e) The requirements in the standards and guidelines related to proximity to historic resources have been satisfied;
 - (f) The applicant has complied with the provisions of the standards and guidelines;
 - (g) In the case of the construction of, or the addition or conversion to multiple-unit housing:
 - 1. The construction, addition or conversion will be completed on or before January 1, 2022;
 - 2. The owner has agreed to include in the construction, addition or conversion, as a part of the multiple-unit housing, one or more public benefits, including but not limited to commercial uses of a portion of the multiple-unit housing structure, open spaces, parks and recreational facilities, common meeting rooms, child care facilities, transit amenities and transit or pedestrian design elements, or benefits otherwise specified in the standards and guidelines;
 - 3. The proposed construction, addition or conversion project is, or will be at the time of completion, in conformance with all local plans and planning regulations, including special or district-wide plans developed and adopted pursuant to ORS chapters 195, 196, 197, 215 and 227, that are applicable at the time the application is approved;
 - (h) In the case of multiple-unit housing subject to a low income housing assistance contract with an agency or subdivision of this state or the United States,
 - 1. The application for exemption was made on or before January 1, 2022;
 - 2. It is important to the community to preserve the housing as low income housing and it is probable that the housing would

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not be produced as or remain low income housing without the exemption being granted;

- (i) The multiple-unit housing is not designed for, and will not be used as transient accommodations; and
 - (j) Granting the application is in the public interest. In making this determination, council shall consider, among other things, the number of points awarded based on the public benefit scoring system contained in the standards and guidelines.
- (7)** Unless the council makes each of the findings required by subsection (6) of this section, the council shall deny the application. In addition to the owner's name and address, and a legal description or the assessor's property account number for the subject multiple-unit housing, the resolution approving the application shall contain the above findings and set forth the specific conditions of approval or exclusions therefrom and specify the percentage and duration of the exemption. A resolution denying an application shall set forth the specific reasons for denial.
- (8)** The city manager shall forward to the applicant a copy of the resolution adopted by the council within 10 days from the date the council acts on the application, and on or before April 1 following approval, shall file with the county assessor a copy of the resolution approving an application.
- (9)** With respect to an application deemed approved through inaction of the council under subsection (4) of this section, on or before April 1 following the expiration of the 180-day period, the city manager shall file with the county assessor an administrative order containing the same findings and information as required to be set forth in a resolution approving an application and forward a copy thereof to the applicant.
- (10)** In the case of a structure to which stories or other improvements are added or a structure that is converted in whole or in part from other use to dwelling units, only the increase in value attributable to the addition or conversion may be exempt from taxation.
- (11)** Notwithstanding subsection (6) of section 2.947 of this code, if the multiple-unit housing is or becomes subject to a low income rental assistance contract with an agency of this state or the United States, the city may extend the exemption through June 30 of the tax year during which the expiration date of the contract falls.

(Section 2.945 added by Ordinance No. 18021, enacted July 11, 1977, amended by Ordinance No. 18809, enacted May 27, 1981; Ordinance No. 19604, enacted February 13, 1989, effective March 15, 1989; Ordinance No. 19838, enacted April 13, 1992; Ordinance No. 19854, enacted May 26, 1992; Ordinance No. 19967, enacted June 13, 1994; Ordinance No. 20073, enacted December 2, 1996, effective January 2, 1997; Ordinance No. 20246, enacted January 28, 2002, effective March 1, 2002; Ordinance 20294, enacted July 28, 2003, effective August 28, 2003; Ordinance No. 20318, enacted April 22, 2004, effective May 22, 2004; Ordinance No. 20350, enacted October 28, 2005, effective November 27, 2005; Ordinance No. 20424, enacted November 24, 2008, effective December 27, 2008; administratively corrected January 19, 2010; amended by Ordinance No. 20479, enacted September 26, 2011, effective October 29, 2011; administratively corrected November 10, 2011.)

2.947 Multiple-Unit Housing - Termination of Approval, Review.

- (1) After a resolution approving an application has been filed, if the city manager finds that:

 - (a) Construction of multiple-unit housing was not completed within the time specified in the resolution, and no extensions as provided in subsection (5) hereof have been granted, or
 - (b) The applicant has failed to comply with the provisions of ORS 307.600 to 307.637, the provisions of this code, any provisions of the standards and guidelines adopted by the city manager, or
 - (c) The applicant has failed to comply with any conditions imposed in the resolution approving the application, or
 - (d) Construction of multiple-unit housing was not completed on or before January 1, 2022, or
 - (e) In the event units within the development are sold individually, a unit owner fails to comply with applicable requirements described in paragraphs (b) or (c) of this section,

the city manager shall notify the council; the owner of the property, at the owner's last known address; and any known lender, at the lender's last known address, of the manager's intention to recommend to the council that the exemption be terminated. The notice shall clearly state the reasons for the proposed termination, and shall require the owner to appear before the council, at a time specified in the notice, which shall not be less than 20 days from the date the notice was mailed, to show cause, if any exists, why the exemption should not be terminated.
- (2) If the owner fails to appear and show cause why the exemption should not be terminated, the city shall further notify every known lender of the owner's failure to appear and shall allow the lender a period of not less than 30 days, beginning with the date that the notice of failure to appear and show cause is mailed to the lender, to cure any noncompliance or to provide adequate assurance that the noncompliance will be remedied.
- (3) If the owner fails to appear before the council at the time specified in the notice, or if the owner appears and fails to show cause why the exemption should not be terminated, and a lender fails to cure or give adequate assurance that any noncompliance will be cured, the council shall adopt a resolution terminating the exemption, which shall contain its findings in support thereof. Copies of the resolution shall be filed with the county assessor and mailed to the property owner, at the owner's last known address, and to any lender at the lender's last-known address, within 10 days from the date adopted. If a determination is made that the exemption should continue as previously granted, the council shall enter written findings of record in support of the continued exemption and forward a copy thereof to the property owner and to any lender within 10 days from the date of the hearing.
- (4) All reviews of council action in denying, approving, or terminating an application shall be governed by the procedures set forth in ORS

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34.010 to 34.100, and correction of assessments and tax rolls and the evaluation of the property shall be in conformity with ORS 307.687. The council's action on an exemption shall not be a land use decision for purposes of administrative review.

- (5) If construction, addition, or conversion of multiple-unit housing is not completed by January 1, 2022, upon receipt of a request from the property owner, the council may, by resolution, extend the deadline for completion of construction of multiple-unit housing for a period not to exceed 12 consecutive months, if it finds the failure to complete construction by the time specified in the resolution was due to circumstances beyond the control of the owner, and that the owner had been and could reasonably be expected to act in good faith and with due diligence.
- (6) In any event, no multiple-unit housing granted an exemption by the council may be exempt from ad valorem taxation for more than 10 successive years. The first year of exemption is the assessment year beginning January 1 immediately following the calendar year in which construction, addition or conversion is completed, determined by that stage in the construction process when, pursuant to ORS 307.330 the improvement would have gone on the tax rolls in the absence of the exemption. The exemption may not include the land, nor any improvements located thereon that are not a part of the multiple-unit housing but may include commercial use of a portion of the structure and parking constructed as part of the multiple-unit housing construction, addition or conversion, and is in addition to any other exemption provided by law. However, no property may be exempt beyond 100 percent of its real market value.
- (7) Any exemption granted by the council shall terminate immediately, without right of notice or appeal, in the event the county assessor determines that a change of use to other than residential or residential with commercial uses of a portion of the structure, or housing has occurred for the multiple-use housing, or portion thereof, or if a low income housing assistance contract with an agency or subdivision of this state or the United States is breached or terminated prematurely, or a declaration as defined in ORS 100.005(12) is presented to the county assessor or tax collector for approval in connection therewith.

Termination shall be in accordance with the provisions of ORS 307.627.

(Section 2.947 added by Ordinance No. 18021, enacted July 11, 1977, amended by Ordinance No. 18809, enacted May 27, 1981; Ordinance No. 19604, enacted February 13, 1989, effective March 15, 1999; Ordinance No. 19854, enacted May 26, 1992; Ordinance 19967, enacted June 13, 1994; Ordinance No. 20073, enacted December 2, 1996, effective January 2, 1997; Ordinance No. 20103, enacted December 8, 1997, effective January 7, 1988; Ordinance No. 20246, enacted January 28, 2002, effective March 1, 2002; Ordinance No. 20350, enacted October 28, 2005, effective November 27, 2005; and Ordinance No. 20424, enacted November 24, 2008, effective December 27, 2008; Administratively corrected January 19, 2010; amended by Ordinance No. 20479, enacted September 26, 2011, effective October 29, 2011.)

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2.955 Urban Renewal Agency.

- (1)** The city council of the City of Eugene is hereby designated the Urban Renewal Agency of the City of Eugene, and is vested with all powers granted to an urban renewal agency by Chapter 457 of the Oregon Revised Statutes or by any other provision of law.
- (2)** All acts of the council acting as the Urban Renewal Agency of the City of Eugene shall be considered the acts of the Urban Renewal Agency only, and not of the council.
- (3)** All duties and obligations of the commission which formerly exercised the powers of the Urban Renewal Agency of the City of Eugene are hereby assumed by the council.

(Section 2.955 added by Ordinance No. 18970, enacted May 24, 1982.)

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Elections

2.960 Elections - State Law. City elections shall be conducted in accordance with this code and the Eugene Charter 2002. Insofar as not governed by the city charter, special ordinances or this code, city elections shall be conducted in accordance with the state law governing popular elections.

(Section 2.960 added by Ordinance No. 18106, enacted January 18, 1978; and amended by Ordinance No. 20405, enacted March 19, 2008, effective April 19, 2008.)

2.961 Elections – Definitions. As used in sections 2.960 to 2.1005 of this code, the following words and phrases mean:

Ballot Title. A ballot title describes a city measure and includes a caption, a question and a summary of the measure. All ballot titles for city measures must comply with the requirements of ORS 250.035 or successor statute.

Candidate. An individual whose name is printed or expected to be printed on the ballot, an individual who campaigns for write-in votes, or an individual who collects or spends money to secure nomination or election to office at any time, even if the specific office is not indicated and the candidate's name does not appear on a ballot.

Certify. With respect to a completed petition means the city recorder's determination that the completed petition includes all of the information required by law and at least the number of elector signatures required by section 2.972 of this code.

Chief petitioner. The elector responsible for the preparation and organization of an initiative or referendum petition. Not more than three electors may be designated as chief petitioners for any one initiative or referendum petition.

City attorney. An attorney or law firm appointed by the city manager to provide legal advice to the manager and council on election matters.

City office. The office of mayor, city councilor or Eugene Water & Electric Board member.

City official. The mayor, a city councilor or a Eugene Water & Electric Board Member.

City recorder. The city manager or the manager's designee.

Completed petition. An initiative or referendum petition that includes all of the information required by law and at least the number of signatures required by section 2.972 of this code.

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Conflicting measures. Measures are conflicting when any part of one measure cannot operate concurrently with a provision of the other measure or when one or both measures expressly provide that they are intended to be the exclusive enactment for that area of legislation.

Election. A general election, primary election, special election or emergency election.

Elector. A resident of the city qualified to vote under the Oregon Constitution, Article II, section 2.

Emergency Election. An election held on a date other than those dates described in ORS 221.230(1) or successor statutes. To call an emergency election, the city council must find by resolution that an emergency exists that requires an election sooner than the next available election date under ORS 221.230(1) in order to avoid extraordinary hardship to the community. In calling an emergency election the city council must comply with the requirements of ORS 221.230(2)-(4) or successor statutes.

General election. An election held on the first Tuesday after the first Monday in November of each even numbered year, or as otherwise defined by the Oregon Legislative Assembly.

Initiative petition. A petition by one or more qualified electors to initiate proposed legislation to be approved or rejected by the electors at an election.

Legislation. A law of a permanent or general character which creates policy as opposed to executing policy already in existence, and which is within the meaning of "legislation" as that term is used in Oregon Constitution, Article IV, Section 1(5).

Measure. A proposed city ordinance, charter revision, charter amendment, or a proposition, question, or advisory measure placed on the ballot by the council, including a measure referred on the recommendation of the Eugene Water & Electric Board. "Measure" also includes municipal legislation, charter revisions and charter amendments placed on the ballot by initiative or referendum petition.

Organization. Includes a corporation, association, firm, partnership, joint stock company, club or other combination of individuals having collective capacity.

Primary election. An election held on the third Tuesday in May of each even-numbered year, or as otherwise defined by the Oregon Legislative Assembly.

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Prospective petition. The information, including the text of the proposed measure, required to be included in a completed petition, except signatures and other identification of petition signers.

Protected ordinance. An ordinance adopted by initiative in accordance with the Eugene Charter of 2002, section 32-A. A protected ordinance may be amended or repealed only by the electors or by unanimous vote of councilors present and voting at a council meeting. The initiative petition and the ballot measure for a protected ordinance must state that it is proposed as a protected ordinance and must explain the limitations on its repeal or amendment.

Referendum petition. A petition by one or more qualified electors to refer legislation adopted by the council to the electors for their approval or rejection at an election.

Special election. An election other than a primary or general election, held on one of the dates described in ORS 221.230(1) or successor statute (the second Tuesday in March, the third Tuesday in May, the third Tuesday in September or the first Tuesday after the first Monday in November).

(Section 2.961 added by Ordinance No. 20405, enacted March 19, 2008, effective April 19, 2008.)

2.962 Elections - Wards. The city council shall by resolution divide the city into eight wards but neither this requirement nor any action pursuant to it disqualifies, or shortens the term of office of, a member of the council or the Eugene Water & Electric Board.

(Section 2.962, previously numbered 2.960, amended by Ordinance 18106, enacted January 18, 1978.)

2.964 Elections - Nomination.

- (1)** A candidate for a city council office representing a particular ward shall be nominated by the electors residing in that ward.
- (2)** A candidate for a Eugene Water & Electric Board office representing a pair of wards shall be nominated by the electors residing in those wards.
- (3)** A candidate for the office of mayor or an office on the Eugene Water & Electric Board representing the city at large shall be nominated by electors who reside in the city.
- (4)** In a year for filling an office referred to in subsection (1), (2), or (3) of this section, a nomination of a candidate for the office shall be conducted in accordance with the state law governing popular elections, except that the nominating petition shall be submitted to the city recorder at least 76 days before the first election for filling the office and it shall be signed by 25 electors who reside in the area to be represented by the office.

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- (5) The city recorder or designee shall verify the signatures on a nominating petition as provided in section 2.979(1) of this code. Any signature which is not the signature of an elector who resides in the area to be represented by the office for which the nominating petition was circulated shall not be counted toward the number of signatures required by subsection (4) of this section.

(Section 2.964, previously numbered 2.970, amended by Ordinance No. 18106, enacted January 18, 1978; Ordinance No. 18697, enacted September 10, 1980; Ordinance No. 19883, enacted October 26, 1992, effective November 25, 1992; Ordinance No. 20287, enacted March 10, 2003, effective April 9, 2003; and Ordinance No. 20405, enacted March 19, 2008, effective April 19, 2008.)

2.965 Elections - Residency. A candidate for a city office must be an elector and must have been a resident of the city for at least one year immediately preceding the election that results in election to the office. A candidate for city office must be registered to vote as a resident of the city at the time his or her nominating petition is submitted to the city recorder. A candidate for city office shall maintain his or her residence within the city and the area he or she seeks to represent at the time of nomination and throughout his or her term of office if elected. If a city official or candidate for city office fails to maintain his or her residence within the city and the area he or she represents or seeks to represent, he or she shall be removed from office or be ineligible to serve as a city official. The vacancy thus created shall be filled in the manner other vacancies in that office are filled. If a city official or candidate for city office has more than one residence, the requirements of this section apply to the principal place of residency, which is the residence where the city official or candidate for city office spends more than 50% of his or her time.

(Section 2.965 added by Ordinance No. 20287, enacted March 10, 2003, effective April 9, 2003; amended by Ordinance No. 20301, enacted November 10, 2003, effective December 10, 2003; and Ordinance No. 20405, enacted March 19, 2008, effective April 19, 2008.)

2.966 Elections - Officers.

- (1) In 2002 and every fourth year thereafter a councilor shall be elected from each of the following wards:
- (a) Ward 3.
 - (b) Ward 4.
 - (c) Ward 5.
 - (d) Ward 6.
- (2) In 2004 and every fourth year thereafter a mayor shall be elected from the city at large and a councilor shall be elected from each of the following wards:
- (a) Ward 1.
 - (b) Ward 2.
 - (c) Ward 7.
 - (d) Ward 8.
- (3) In 1978 and every fourth year thereafter two members shall be elected

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to the Eugene Water & Electric Board, one from wards 4 and 5 and one from the city at large. In 1980 and every fourth year thereafter, three members shall be elected to the board, one from wards 1 and 8, one from wards 2 and 3, and one from wards 6 and 7.

- (4) Except as provided in section 24 of the Eugene Charter, the first voting for mayor, councilor, or Eugene Water & Electric Board member during a year shall take place at an election held at the same time as the statewide primary election that year.
- (5) If at the primary election one candidate for a city office receives a majority of the votes cast for that office, that candidate shall be the only one whose name appears on the ballot at the general election that year as a candidate for that particular office.
- (6) If at the primary election no candidate receives a majority of votes cast for the office, the two candidates receiving the two highest numbers of votes cast for the office shall be the only candidates whose names appear on the ballot at the general election that year as candidates for that particular office.
- (7) The candidate who receives a majority of the votes cast for the office at the general election is elected to that office and is entitled to a certificate of election thereto.
- (8) A candidate who has been elected to office at the November election shall take office upon the later of:
 - (a) Filing of the oath or affirmation of office; or
 - (b) The first Monday in January following the election.

(Section 2.966 previously numbered 2.962, amended by Ordinance No. 18106, enacted January 18, 1978; Ordinance No. 20239, enacted December 10, 2001; Ordinance No. 20287, enacted March 10, 2003, effective April 9, 2003; and Ordinance No. 20405, enacted March 19, 2008, effective April 19, 2008.)

2.968 Elections - Eugene Water & Electric Board - Composition.

- (1) Except as subsection (2) of this section provides to the contrary, each member elected to the Eugene Water & Electric Board has a term of office thereon of four years.
- (2) The board may fill a vacant office thereon by appointing thereto a person from the same constituency as the member who last occupied that office. If an elected member leaves the office vacant less than 14 months after the member's term on the board begins, at the next primary and general elections after the vacancy occurs, a member shall be elected to the vacant office from the same constituency as the member who last occupied that office. The term of office of the person so elected begins January 1st of the immediately ensuing year and continues for two years.

(Section 2.968, previously numbered 2.180, amended by Ordinance No. 18106, enacted January 18, 1978; administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998; and Ordinance No. 20405, enacted March 19, 2008, effective April 19, 2008.)

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2.970 Submissions During Business Hours. Prospective and completed petitions must be submitted to the city recorder in person at the office of the city recorder during regular business hours.

(Section 2.970 added by Ordinance No. 18106, enacted January 18, 1978; amended by Ordinance 19883, enacted October 26, 1992, effective November 26, 1992; Ordinance No. 20287, enacted March 10, 2003, effective April 9, 2003; and Ordinance No. 20405, enacted March 19, 2008, effective April 19, 2008.)

2.971 Elections – Initiative and Referendum, Manner of Initiating or Referring Legislation.

- (1) Any elector may initiate proposed legislation by submitting a completed initiative petition proposing the legislation to the city recorder.
- (2) Any elector may refer council legislation to the electors by submitting a completed referendum petition to the city recorder prior to the effective date of the legislation.
- (3) The council may order submission of proposed or adopted legislation to the electors.
- (4) An ordinance for which a prospective referendum petition has been submitted to the city recorder does not take effect during the period of signature collection and signature verification, and if petitioners collect the number of elector signatures required under section 2.972 of this code, the ordinance shall not take effect except as provided in section 2.987 of this code.

(Section 2.971 added by Ordinance No. 18106, enacted January 18, 1978; amended by Ordinance No. 19883, enacted October 26, 1992, effective November 25, 1992; Ordinance No. 20287, enacted March 10, 2003, effective April 9, 2003; Ordinance No. 20405, enacted March 19, 2008, effective April 19, 2008; and clerically corrected October 24, 2008.)

2.972 Elections - Initiative and Referendum, Requisite Number of Signatures. The number of signatures required for an initiative petition is 15 percent, and for a referendum petition 10 percent, of the number of votes cast for the office of mayor at the mayoral election last preceding the date when circulation of the petition begins.

(Section 2.972 added by Ordinance No. 18106, enacted January 18, 1978; and amended by Ordinance No. 20393, enacted September 24, 2007, effective October 26, 2007.)

2.973 Elections - Initiative and Referendum, Prospective Petition.

- (1) An initiative or referendum petition shall be in the form prescribed by the city recorder.
- (2) When a prospective petition is submitted to the city recorder, the city recorder shall, as soon as possible, determine whether the prospective petition is in the proper form, including but not limited to compliance with the requirements of subsection 2.974(a) of this code, and;
 - (a) If the prospective petition is not in the proper form, return the prospective petition to the person submitting it and advise that person what the defects are;
 - (b) If the prospective petition is in the proper form:
 1. Advise the person submitting the prospective petition of the number of signatures necessary to place the petition on the ballot;
 2. Advise the person submitting the petition of the deadlines in subsections (c) and (d) of section 2.974 of this code;
 3. Specify the size and kind of paper on which the prospective

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petition is to be duplicated;

4. Date and time stamp the prospective petition; and
 5. Initial the prospective petition and approve it for circulation.
- (3) On the next business day after a prospective petition in the proper form is submitted to the city recorder, the city recorder shall transmit a copy of the prospective petition to the city attorney for review and action under section 2.977 of this code.
- (4) The prospective petition shall include a statement signed by the chief petitioner(s) declaring whether one or more persons will be paid money or other valuable consideration for obtaining signatures on the initiative or referendum petition. Once the prospective petition is approved for circulation, the chief petitioners shall notify the city recorder not later than the tenth day after any of the chief petitioners first has knowledge or should have had knowledge that:
- (a) Any person is being compensated for obtaining signatures, if the statement included with the prospective petition declared that no such person would be compensated.
 - (b) No person is being compensated for obtaining signatures, if the statement included with the prospective petition declared that one or more such persons would be compensated.

(Section 2.973 added by Ordinance No. 18106, enacted January 18, 1978; amended by Ordinance No. 19883, enacted October 26, 1992, effective November 26, 1992; Ordinance No. 20287, enacted March 10, 2003, effective April 9, 2003; and Ordinance No. 20405, enacted March 19, 2008, effective April 19, 2008.)

- 2.974 Elections - Initiative and Referendum, Petition Requirements.** No completed initiative or referendum petition may be submitted to the city recorder unless:
- (a) Prior to its circulation a prospective petition was submitted to the city recorder. The prospective petition must contain a copy of the legislation sought to be submitted to the electors and a signed statement on the face of the petition of the names and addresses of not more than three chief petitioners. If one or more of the chief petitioners is an organization, the prospective petition shall disclose the name and address of the organization, the name and address of each of the principal officers of the organization and the signature of the chief officer of the organization;
 - (b) As circulated, the prospective petition complies with the city recorder's specifications and the requirements of this code, contains the caption or ordinance title required by section 2.975 of this code, and contains the names and addresses of the chief petitioners;
 - (c) The date of the first signature on the petition is no later than 90 days after the issuance of the ballot title on the measure; and
 - (d) The completed petition is submitted to the city recorder for signature verification no later than 100 days after the date of the first signature on the petition. A completed referendum petition shall be submitted to the city recorder by that time or by the effective date of the legislation

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sought to be referred, whichever is earlier.

(Section 2.974, formerly section 2.976, added by Ordinance No. 18106, enacted January 18, 1978; amended by Ordinance No. 18311, enacted December 6, 1978; Ordinance No. 19883, enacted October 26, 1992, effective November 25, 1992; Ordinance No. 20287, enacted March 10, 2003, effective April 9, 2003; renumbered and amended by Ordinance No. 20405, enacted March 19, 2008, effective April 19, 2008.)

2.975 Elections – Form of Petition and Signature Requirements.

- (1)** Signature sheets for an initiative or referendum petition shall be double-sided.
- (2)** The front side of each signature sheet shall contain:
 - (a) The names and residence addresses of all chief petitioners;
 - (b) Instructions adopted by the Secretary of State for persons obtaining signatures on the petition; and
 - (c) If the petition is an initiative petition, the caption of the ballot title issued pursuant to section 2.977 of this code;
 - (d) If the petition is a referendum petition, either the caption of the ballot title issued pursuant to section 2.977 of this code or the title of the ordinance to be referred.
- (3)** The reverse side of an initiative or referendum petition shall:
 - (a) Be used for obtaining signatures;
 - (b) If the petition is an initiative petition, include the caption of the ballot title for the initiative measure;
 - (c) If the petition is a referendum petition, include the number of the ordinance to be referred and the date it was adopted by the council.
 - (d) If one or more persons will be paid for obtaining signatures on the petition, contain a notice stating: "Some circulators for this petition are being paid."
- (4)** Not more than 20 signatures on each signature sheet of the initiative or referendum petition shall be counted. The circulator shall certify on each signature sheet that the circulator:
 - (a) Witnessed the signing of the signature sheet by each individual whose signature appears on the signature sheet; and
 - (b) Believes each individual is an elector registered in the city.
- (5)** Each person collecting signatures must carry at least one complete and correct copy of the text of the initiative measure or the ordinance being referred and must allow any person to review the text upon request.

(Section 2.975 added by Ordinance No. 20405, enacted March 19, 2008, effective April 19, 2008.)

2.977 Elections - Initiative and Referendum, Preparation of Ballot Title; Appeal.

- (1)** Within five business days following the city attorney's receipt of a prospective petition for an initiative or referendum measure, the city attorney shall review the prospective petition for legal sufficiency, and, if appropriate, issue a ballot title.

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- (a) If the city attorney determines that the prospective petition is legally insufficient, the city attorney shall inform the city recorder in writing of the reasons for that determination. The city recorder shall return the prospective petition to the chief petitioners, along with a copy of the city attorney's written determination.
- (b) If the city attorney determines that the prospective petition is legally sufficient, the city attorney shall prepare a ballot title and deliver it to the city recorder. The city recorder shall provide a copy of the ballot title to the chief petitioners.
- (2) Within five business days following the council's decision to submit legislation to the electors under subsection 2.971(3) of this code, the city attorney shall prepare a ballot title and deliver it to the city recorder.
- (3) The ballot title of any measure to be initiated or referred shall comply with the state statutes in effect at the time the ballot title is prepared. The ballot title shall not resemble, to the extent it creates confusion, any ballot title previously prepared for a measure to be submitted to the electors at the same election.
- (4) Upon receiving a ballot title for a city measure from the city attorney, the city recorder shall publish in the next available edition of a newspaper of general circulation in the city a notice of receipt of the ballot title including notice that an elector may file a petition for review of the ballot title not later than the date referred to in subsection (5) of this section.
- (5) An elector dissatisfied with the ballot title may, within seven business days after it is delivered to the city recorder, petition the Lane County Circuit Court seeking a different ballot title and stating the reasons that the title prepared by the city attorney is insufficient, not concise or unfair. The petition shall name the city attorney as respondent. The court shall review the ballot title and measure to be initiated or referred, hear arguments, if any, and certify to the city recorder a ballot title for the measure which meets the requirements of state statutes in effect at the time the ballot title is prepared.

(Section 2.977 added by Ordinance No. 18106, enacted January 18, 1978; amended by Ordinance No. 19883, enacted October 26, 1992, effective November 25, 1992; Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998; Ordinance No. 20287, enacted March 10, 2003, effective April 9, 2003; and Ordinance No. 20405, enacted March 19, 2008, effective April 19, 2008.)

2.979 Elections - Initiative and Referendum, Verification of Signatures, Completed Petition.

- (1) A completed initiative or referendum petition shall be submitted to the city recorder for signature verification. The city recorder may not accept for signature verification any petition sheets that do not comply with the requirements contained in state statute and this code for signature sheets. Within 15 days of submission of a completed initiative or referendum petition for signature verification, the city recorder or the recorder's designee shall, by reference to the records in the Lane County Elections office, verify the number and genuineness of the

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signatures and the voting qualifications of the signers; and, if electors in a number sufficient under section 2.972 of this code have signed the petition, the city recorder shall so certify the petition. If the city recorder determines that the petition contains an insufficient number of elector signatures, the petition shall be returned to the chief petitioners.

- (2) If the number of elector signatures required under section 2.972 of this code exceeds 4,500, the city recorder or designee may utilize the statistical sampling technique established by rule of the Secretary of State to determine whether a petition contains the required number of elector signatures. If signatures on an initiative or referendum petition are verified using this procedure, a petition may not be rejected for the reason that it contains fewer than the required number of elector signatures unless two separate sampling processes establish the lack of requisite signatures. The second sampling must contain a larger number of signatures than the first sampling.

(Section 2.979 added by Ordinance No. 18106, enacted January 18, 1978; amended by Ordinance No. 19844, enacted October 26, 1992, effective November 26, 1992; and Ordinance No. 20405, enacted March 19, 2008, effective April 19, 2008.)

2.980 Elections - Initiative and Referendum, Presentation of Measure to Council.

- (1) No later than 20 days after the city recorder certifies a completed initiative or referendum petition, the city manager shall present the petition to the council for consideration. At that time, or thereafter, the council may:
 - (a) Adopt an ordinance proposed by an initiative petition;
 - (b) Repeal an ordinance referred by referendum petition;
 - (c) Vote to urge adoption or defeat of the initiated or referred measure;
 - (d) Order submission of an alternative measure or measures to be voted upon at the same election as the initiated or referred measure.
- (2) During the 61 day period prior to an election on an initiative or referendum measure the council shall refrain from adopting an ordinance proposed by an initiative petition or repealing an ordinance referred by a referendum petition.

(Section 2.980 added by Ordinance No. 18106, enacted January 18, 1978; amended by Ordinance No. 19883, enacted October 26, 1992, effective November 25, 1992; and Ordinance No. 20405, enacted March 19, 2008, effective April 19, 2008.)

2.981 Elections - Initiative and Referendum, Voting on Measure.

- (1) Initiative.
 - (a) A charter or charter amendment or revision proposed by initiative petition, a protected ordinance proposed by initiative petition, and an ordinance proposed by initiative petition but not enacted in accordance with section 2.980 of this code, shall be submitted to the electors.

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- (b) The time for voting on an initiative measure submitted to the electors under subsection (1) of this section shall be the first primary or general election held more than 90 days after the city recorder's certification of the completed petition under section 2.979 of this code, unless the council calls an earlier special election on the measure. The special election called by the council may not be held earlier than 66 days after the city recorder's certification of the completed petition.
- (2) Referendum.
 - (a) An ordinance referred by petition but not repealed in accordance with section 2.980 of this code shall be submitted to the electors.
 - (b) An election on legislation referred to the electors by petition shall be held on the next available election date as described in ORS 221.230(1) or successor statutes that is not sooner than the 90th day after the city recorder's certification of the completed referendum petition under section 2.979 of this code, unless the council calls an earlier or later special election on the measure. The special election called by the council may not be held earlier than 66 days after the city recorder's certification of the completed petition.
- (3) Legislation Referred by Council. The time for voting on legislation referred to the electors by the council shall be the first primary or general election held more than 90 days after the date that the council orders the legislation referred under section 2.971 of this code, unless the council calls an earlier special or emergency election on the measure. In any event, an election on a council-referred measure may not be held earlier than 90 days after the date that council orders the legislation referred.

(Section 2.981 added by Ordinance No. 18106, enacted January 18, 1978, amended by Ordinance No. 18311, enacted December 6, 1978; Ordinance No. 19160, enacted June 29, 1983; Ordinance No. 19883, enacted October 26, 1992, effective November 25, 1992; Ordinance No. 20287, enacted March 10, 2003, effective April 9, 2003; and Ordinance No. 20405, enacted March 19, 2008, effective April 19, 2008.)

2.982 Elections - Initiative and Referendum, Furnishing Information to County Clerk. Where legislation is to be voted on at an election, the date of which is prescribed by state law, the city recorder shall submit to the Lane County elections clerk, in accordance with the time limit established by state law for the submission, a certified copy of the ballot title.

(Section 2.982 added by Ordinance No. 18106, enacted January 18, 1978; and amended by Ordinance No. 19883, enacted October 26, 1992, effective November 25, 1992.)

2.983 Elections - Initiative and Referendum, Designation on Ballot. Legislation submitted under this chapter shall appear on the ballot by ballot title only. Initiative measures shall be distinguished from referendum measures.

(Section 2.983 added by Ordinance No. 18106, enacted January 18, 1978; and amended by Ordinance No. 19883, enacted October 26, 1992, effective November 25, 1992.)

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- 2.984 Elections - Notice.** The city recorder shall give 10 days' notice of an election by one publication of the notice in a newspaper of general circulation in the city. The notice need not set forth in full any measure to be submitted to the electors at the election, but the notice shall state the ballot title of each measure.

(Section 2.984, formerly section 2.990, amended by Ordinance No. 18106, enacted January 18, 1978; Ordinance No. 19883, enacted October 26, 1992, effective November 25, 1992; and renumbered and amended by Ordinance No. 20405, enacted March 19, 2008, effective April 19, 2008.)

- 2.985 Elections - Initiative and Referendum, Election Returns.** The votes on a measure shall be counted, canvassed and returned as follows:

- (a) In case of an election held at a time prescribed by state law, in the same manner as other votes cast at such an election in the city.
- (b) In case of special elections held at other times, in the manner prescribed by the city manager.

(Section 2.985, formerly section 2.984, added by Ordinance No. 18106, enacted January 18, 1978; amended by Ordinance No. 19883, enacted October 26, 1992, effective November 25, 1992; and renumbered and amended by Ordinance No. 20405, enacted March 19, 2008, effective April 19, 2008.)

- 2.986 Elections - Initiative and Referendum, Proclamation by Mayor.**

- (1) Upon completion of the canvass of votes on a measure submitted pursuant to this chapter, the mayor shall issue a proclamation:
 - (a) Recapitulating the vote on the measure; and
 - (b) If the majority of votes cast on the measure were in favor of the measure, announcing the effective date of the legislation in accordance with section 2.987 of this code.
- (2) The city recorder shall give public notice of the proclamation by release to the media or by posting a copy thereof at the city hall.
- (3) The proclamation shall be retained with the measure in the office of the city recorder.

(Section 2.986, formerly section 2.985, added by Ordinance No. 18106, enacted January 18, 1978; amended by Ordinance No. 19883, enacted October 26, 1992, effective November 25, 1992; and renumbered and amended by Ordinance No. 20405, enacted March 19, 2008, effective April 19, 2008.)

- 2.987 Elections - Initiative and Referendum, Effective Date of Measure.** A measure which has been approved by a majority of the electors who voted on the measure takes effect upon the mayor's proclamation that the measure has passed, or at a later date, if specified in the measure.

(Section 2.987, formerly section 2.986, added by Ordinance No. 18106, enacted January 18, 1978; amended by Ordinance No. 20287, enacted March 10, 2003, effective April 9, 2003; and renumbered and amended by Ordinance No. 20405, enacted March 19, 2008, effective April 19, 2008.)

- 2.988 Elections - Initiative and Referendum, Conflicting Measures.** Of two

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conflicting measures approved by the electors at the same election, the measure receiving the greater number of affirmative votes shall be deemed approved and the other measure deemed not approved.

(Section 2.988, formerly 2.987 added by Ordinance No. 18106, enacted January 18, 1978; amended by Ordinance No. 19883, enacted October 26, 1992, effective November 25, 1992; and renumbered and amended by Ordinance No. 20405, enacted March 19, 2008, effective April 19, 2008.)

2.989 Elections - Initiative and Referendum, Unlawful Acts.

- (1) No person other than an elector shall knowingly sign a city initiative or referendum petition.
- (2) No person shall sign a city initiative or referendum petition with a name not his or her own.
- (3) No person shall sign his or her name to a city initiative or referendum petition with knowledge of previously signing the petition.
- (4) No person shall circulate or submit to the city recorder a city initiative or referendum petition which to his or her knowledge contains a signature signed in violation of this chapter.
- (5) No person shall procure or attempt to procure a signature to a city initiative or referendum petition by fraud.
- (6) No person shall make a statement concerning a city initiative or referendum petition that the person knows to be false.
- (7) No person shall knowingly make a document under this chapter that contains a false statement.
- (8) No city officer shall willfully violate a provision of this chapter.

(Section 2.989, formerly section 2.988, added by Ordinance No. 18106, enacted January 18, 1978; amended by Ordinance No. 18120, enacted February 15, 1978; Ordinance No. 19883, enacted October 26, 1992, effective November 25, 1992; renumbered and amended by Ordinance No. 20405, enacted March 19, 2008, effective April 19, 2008.)

2.993 Elections – Voters’ Pamphlet.

- (1) The following definitions apply to sections 2.993 to 2.998:
 - (a) “Measure” means both city measures and school district measures.
 - (b) “City measure” means a proposed city ordinance, charter revision, charter amendment, or a proposition, question or advisory measure placed on the ballot by the council, including a measure referred on the recommendation of the Eugene Water & Electric Board. “City measure” also includes municipal legislation, charter revisions and charter amendments placed on the ballot by initiative or referendum petition.
 - (c) “School district measure” means a measure placed on the ballot by the school district.
 - (d) “School district” means Eugene School District 4J or Bethel School District 52.
 - (e) School district elector means a resident of the school district qualified to vote under the Oregon Constitution, Article II, section

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2.

- (2) The city manager shall publish and distribute a local voters' pamphlet for each election in which a city measure is on the ballot.
- (3) The city manager shall include in a voters' pamphlet published pursuant to subsection (2) of this section statements from candidates in races for city offices (council, mayor, or Eugene Water & Electric Board member) if such statements are submitted by the candidates, together with a fee in the amount of \$100.00.
- (4) If a candidate for city office wishes to publish a statement in the city voters' pamphlet for an election at which no city measure is submitted for a vote, the city manager shall publish a voters pamphlet containing candidate statements submitted pursuant to subsection (3) of this section, unless the city council waives the requirement. Candidate statements to be published pursuant to this subsection shall be submitted to the city recorder not less than 70 days prior to the date of the election for which the voters' pamphlet is published. If the city recorder does not receive a candidate statement by the 70th day prior to the election, the city manager shall not publish a voters' pamphlet pursuant to this subsection.
- (5) Prior to the inclusion of a statement from a candidate for the Eugene Water & Electric Board in a voters' pamphlet published pursuant to subsection 2.993(4), the Eugene Water & Electric Board shall agree to pay to the city the cost of the Eugene Water & Electric Board's portion, as determined by the city recorder, for the printing, advertising, mailing and personnel expenses associated with publishing the voters' pamphlet and distributing it within the city limits. Nothing in this subsection shall relieve Eugene Water & Electric Board candidates of the obligation to pay the fee required by subsection (3) of this section.
- (6) A voters' pamphlet published by the city manager pursuant to subsection (3) of this section shall be distributed as provided in section 2.997 of this code.
- (7) Any time a voters' pamphlet is produced under this section, the city manager shall include in the voters' pamphlet any school district measure and any candidate statement for a school board position for which timely notice and payment is received. The contents of a school district measure shall comply with subsection 2.994(1)(a) of this code; the contents of a candidate's statement shall comply with subsection 2.994(2) of this code.
 - (a) Timely notice.
 - 1. For notice of a school district measure to be timely, the school district must submit the text of the measure to the city recorder not later than the second business day following the 61st day before the date of the election.
 - 2. For notice of a school board candidate's statement to be timely, the candidate for a school board position must submit the statement to the city recorder not less than 56 days prior to the date of the election.

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(b) Payment.

1. Prior to the inclusion of a school district measure in the voters' pamphlet, the school district shall agree to pay to the city the cost of the school district's portion, as determined by the city recorder, of the printing, advertising, mailing, and personnel expenses associated with publishing the voters' pamphlet and distributing it within the city limits. The school district shall agree to pay to the city the full cost of the expenses associated with the distribution of voters' pamphlets outside the city limits.
2. Candidates for school board positions shall pay to the city a fee in the amount of \$100 at the time they submit their statements to the city recorder.

(c) Submission of arguments for or against school district measure.

1. Written arguments in favor of or in opposition to a school district measure may be submitted by following the procedure described in subsections 2.996(1) and (1)(b) of this code, except that one or more school board members voting in favor of the measure shall be substituted for the city councilors.
2. Additional arguments in favor of or in opposition to a school district measure may be submitted by following the procedure described in subsection 2.996(4) of this code, except that the required petition signatures shall be those of school district electors.

(Section 2.993 added by Ordinance No. 19533, enacted February 8, 1988; amended by Ordinance No. 20030, enacted December 4, 1995, effective January 3, 1996; Ordinance No. 20190, enacted February 28, effective March 29, 2000; and Ordinance No. 20405, enacted March 19, 2008, effective April 19, 2008.)

2.994 Elections – Voters' Pamphlet - Contents.

- (1) A voters' pamphlet published under section 2.993 of this code shall contain for each measure the following items in the following order:
 - (a) The ballot title and text of the measure to be submitted to the electors at the election for which the pamphlet is prepared;
 - (b) One argument in favor of the measure not to exceed 350 words, followed by a rebuttal to the argument not to exceed 200 words; and one argument in opposition to the measure not to exceed 350 words, followed by a rebuttal to the argument not to exceed 200 words. Such arguments and rebuttals shall be submitted in the manner provided in subsection 2.996(1) of this code;
 - (c) Additional arguments in favor of, or in opposition to, the measure may be submitted in the manner provided in subsection 2.996(4) of this code. Each additional argument shall not exceed 325 words and shall not exceed 3-5/8 inches in width by 8 inches in length.
- (2) Following the information contained in subsection (1) of this section, the

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voters' pamphlet shall include statements from those candidates for city offices and school board positions who submit such statements and pay the required fee. The statements shall not exceed 325 words and may include a photograph of the candidate. Until such time as the city manager adopts rules governing the size and/or type of candidate information, the city shall apply the criteria adopted by the state relating to candidate information in state voters' pamphlets.

- (3) In addition, the voters' pamphlet also may contain other general information about the election process that may be economically feasible to publish. This information may include, but is not limited to, hours of operation and location of sites available for ballot deposit, a sample ballot, requirements for a citizen to qualify as an elector, when an elector is required to re-register, how to register to vote, how an elector may obtain and use an absentee ballot, how and where to obtain a replacement ballot and other relevant information, pictures, figures, and data relevant to the election.
- (4) The order in which the arguments related to a city measure are printed in the voters' pamphlet shall be as follows: first, the written argument in favor of the city measure, as described in subsection 2.996(1); second, the rebuttal to the argument in favor, as described in subsection 2.966(1); third, the written argument in opposition to the measure, as described in subsection 2.996(1); fourth, the rebuttal to the argument in opposition, as described in subsection 2.996(1); fifth, any additional arguments in favor of the city measure, as described in subsection 2.996(4), in the order in which they are received by the city recorder; and finally, any additional arguments in opposition to the measure, as described in subsection 2.996(4), in the order in which they are received by the city recorder.
- (5) If two or more conflicting measures are to be voted on in a particular election, the voters' pamphlet shall identify those measures and explain the provisions of section 2.988.

(Section 2.994 added by Ordinance No. 19533, enacted February 8, 1988; amended by Ordinance No. 20030, enacted December 4, 1995, effective January 3, 1996; Ordinance No. 20190, enacted February 28, 2000, effective March 29, 2000; and Ordinance No. 20405, enacted March 19, 2008, effective April 19, 2008.)

2.996 Voters' Pamphlet - Submission of Arguments For or Against Measure and Statements from Candidates.

- (1) Not less than 56 days prior to the date of the election, the written arguments authorized by subsection 2.994(1)(b) of this code in favor of, and in opposition to a measure shall be submitted to the city recorder. Any rebuttals to the arguments shall be submitted not less than 46 days prior to the date of the election. Such arguments and rebuttals shall be prepared and submitted in the following manner:
 - (a) Citizen-initiated measures. The written argument in favor of the city measure, and the rebuttal to the argument in opposition to the measure, shall be submitted by one or more of the chief

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- petitioners. The written argument in opposition to the city measure, and the rebuttal to the argument in support of the measure, shall be submitted by a three-person committee. The committee shall be chosen by the city recorder by lot, at a time and place announced to all applicants, from among persons who file an application for a position on the committee within a time specified by the city recorder after appropriate notice of opportunity to apply. An applicant shall certify under penalty of perjury that he or she is a bona fide opponent to the city measure. If no one applies for appointment to prepare the argument in opposition, the voters' pamphlet shall so state.
- (b) City council-referred measures. The written argument in favor of the city measure, and the rebuttal to the argument in opposition to the measure, shall be submitted by one or more of the city councilors who voted in favor of the measure; except that in the case of a city measure referred on the recommendation of Eugene Water & Electric Board, one or more members of the Eugene Water & Electric Board voting in favor of the measure shall be substituted for the city councilors. The written argument in opposition to the city measure, and the rebuttal to the argument in support of the measure, shall be submitted by a three-person committee chosen in the same manner as provided by paragraph (a) of this subsection.
 - (c) Citizen-referred measures. The written argument in favor of the city measure, and the rebuttal to the argument in opposition to the measure, shall be submitted by one or more of the city councilors who voted in favor of the ordinance referred. The written argument in opposition to the city measure, and the rebuttal to the argument in support of the measure, shall be submitted by one or more of the chief petitioners of the referendum petition, so long as the persons who submit the argument and rebuttal first certify under penalty of perjury that they are bona fide opponents of the ordinance. If the chief petitioners are not bona fide opponents (e.g., if they merely favor the opportunity to vote on the issue), the argument in opposition to the city measure, and the rebuttal to the argument in support of the measure, shall be submitted by a three-person committee chosen in the same manner as provided by paragraph (a) of this subsection.
- (2) If one or more members of the committees preparing the arguments or rebuttals cannot agree on a committee statement, he or she may write his or her own statement not exceeding 116 words if the statement is one of argument or 66 words if the statement is one of rebuttal. The length of the committee argument or rebuttal, if any, shall be reduced by the same amount.
 - (3) Statements from candidates for city offices, other than those statements submitted pursuant to subsection 2.993(4), shall be submitted not less than 56 days prior to the date of an election.

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- (4) Not less than 56 days prior to the date of an election, additional arguments, authorized by subsection 2.994(1)(c) of this code, in support of, or in opposition to a measure may be submitted, providing that each additional argument is accompanied by the signatures of 300 electors supporting the argument or by a fee of \$300.
 - (a) Each person signing a petition shall subscribe to a statement that the person has read and agrees with the argument.
 - (b) The city recorder or designee shall verify the signatures on a petition as provided in subsection 2.979(1) of this code. The city recorder or designee shall attach to the petition a certificate stating the number of elector signatures on the petition. A signature that is not the signature of an elector shall not be counted by the city recorder for determining compliance with this subsection.
- (5) The city recorder shall reject any argument or statement which
 - (a) Contains any defamatory language;
 - (b) Contains any language which may not legally be circulated in the mails; or
 - (c) Otherwise does not comply with sections 2.993 to 2.998 of this code.
- (6) The city recorder shall include in the voters' pamphlet on each page containing a printed candidate statement or arguments on a measure, the name of the person who submitted the statement or argument, the name of the organization the person represents, if any, whether the argument supports or opposes the measure, the statement(s) required by subsection 2.996 (1)(a) and (c) of this code, if applicable, and a disclaimer in substantially the following form: "The printing of this (argument or statement) does not constitute an endorsement by the City of Eugene, nor does the City of Eugene warrant the accuracy or truth of any statement made."

(Section 2.996 added by Ordinance No. 19533, enacted February 8, 1998; amended by Ordinance No. 20030, enacted December 4, 1995, effective January 3, 1996; Ordinance No. 20135, enacted December 7, 1998, effective January 6, 1999; Ordinance No. 20190, enacted February 28, 2000, effective March 29, 2000; and Ordinance No. 20405, enacted March 19, 2008, effective April 19, 2008; clerically corrected July 7, 2008.)

- 2.997** **Voters' Pamphlet - Distribution.** No later than the 18th day before the election at which a city measure is to be voted upon, the city manager or the manager's designee shall mail a voters' pamphlet to each residence within the appropriate geographical area(s) and make voters pamphlets available for public distribution at city hall, the city library, and at other municipal facilities within the city. The appropriate geographical area means the following:
- (a) For voters' pamphlets containing city measures or statements from candidates for mayor or Eugene Water & Electric Board at large member, the city limits of Eugene;
 - (b) For voters' pamphlets containing school district measures or statements

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from candidates for school board positions, the boundaries of the school district.

- (c) For voters' pamphlets containing only statements from candidates for city council or Eugene Water & Electric Board positions, the wards which those candidates would represent if elected.

(Section 2.997 added by Ordinance No. 19533, enacted February 8, 1988; and amended by Ordinance No. 20190, enacted February 28, 2000, effective March 29, 2000; and Ordinance No. 20405, enacted March 19, 2008, effective April 19, 2008.)

2.998 Voter's Pamphlet - Rulemaking Power. The city manager shall have the authority to issue rules and regulations governing:

- (a) The content, form and deadline for filing any material required to be filed under sections 2.993 to 2.998 of this code;
- (b) Verification of signatures;
- (c) Such other matters as are necessary for the administration of sections 2.993 to 2.998 of this code.

Such rules and regulations shall be adopted using the process set forth at section 2.019 of this code.

(Section 2.998 added by Ordinance No. 19533, enacted February 8, 1988; administratively amended by Ordinance No. 19742, enacted January 14, 1991; and amended by Ordinance No. 20030, enacted December 4, 1995, effective January 3, 1996.)

2.999 Advisory Elections.

- (1) Whenever the city council deems it necessary, it may send a question or proposition to the electors for their advice. The calling of such an election shall occur during the time set by state and local law for the submission of legislation to the electorate for adoption or rejection.
- (2) The advisory ballot title shall be in a form approved by the city council. The advisory ballot measure may seek selection between substantive options or choices, or it may seek an affirmative or negative response to the proposition or question.

(Section 2.999, added by Ordinance No. 19534, enacted February 8, 1988.)

2.1000 Elections – Conduct of Elections. Elections shall be conducted in the manner provided by state law. Any ballot and any elector casting a ballot may be challenged in the manner provided by state law.

(Section 2.1000 added by Ordinance No. 19883, enacted October 26, 1992, effective November 25, 1992; and amended by Ordinance No. 20405, enacted March 19, 2008, effective April 19, 2008.)

2.1005 Elections - Prohibitions.

- (1) No person shall knowingly make a false statement, oath or affidavit where a statement, oath or affidavit is required under the election laws.
- (2) No person shall request or sign a ballot in a name other than the person's own name.
- (3) No person shall attempt to vote more than once at the same election.

(Section 2.1005 added by Ordinance No. 19883, enacted October 26, 1992, effective November 25, 1992.)

Emergency Interim Succession

2.1015 **Definitions.** For the purposes of sections 2.1015 to 2.1050 the following words and phrases shall have the meanings respectively ascribed to them:

Duly authorized. A person who is presently authorized to perform all of the functions, exercise all of the powers and discharge all of the duties of an office in the event the office is vacated or at such time as it lacks administration due to the death, absence, or disability of the incumbent officer.

Emergency interim successor. A person designated pursuant to sections 2.1015 to 2.1050 for possible temporary succession to the powers and duties, but not the office, of a city officer in the event that such officer or a duly authorized deputy is unavailable to exercise the powers and discharge the duties of the office.

Officer. Includes all city officers, with powers and duties which are defined by the Charter, Code, ordinances and resolutions of the city, except the office of mayor and does not include the positions of deputies, assistants, or other subordinates of those officers.

Unavailable. Absent or unable to exercise the powers and discharge the duties of an office and includes vacancy.

2.1020 **Purpose.** Because of the possibility of enemy attack, natural disaster, calamity, or common accident, and in order to assure continuity of effective legally constituted leadership, authority, and responsibility in the offices of the government of the city, it is found and declared to be necessary to provide for emergency interim officers who can exercise the powers and discharge the duties of the key executive, administrative, legislative and judicial offices in the city in the event that the incumbents thereof, and their deputies, assistants, or other subordinate officers, authorized pursuant to law, to exercise all the powers and discharge the duties of such offices, are killed, missing, disabled, or for some other cause unable to perform the duties and functions of their offices during or immediately following an enemy attack, natural disaster, calamity, or common accident.

2.1025 **Mayor.**

(1) The senior councilor in time of service as a councilor or the councilor next in seniority in time of service as a councilor who is available, if the senior councilor is unavailable, is the emergency interim successor to the powers and duties of the office of mayor in the event the mayor is not able to exercise the powers and discharge the duties of the mayor's office, or is unavailable, and the president of the council is not able to

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exercise the powers and discharge the duties of the mayor, or is not available.

- (2) A councilor who succeeds to the powers and discharges the duties of mayor under this section is not required to resign from the council. No emergency interim successor to the powers and duties of the office of a councilor may succeed to the powers and duties of mayor.
- (3) The city recorder shall prepare and keep on file in the recorder's office a current list of all the councilors at all times. The list shall include the name, length of service and the age of each councilor. If two councilors have served equal lengths of time, the older councilor precedes the younger as emergency interim successor.

(Section 2.1025 administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

2.1030 Councilors. In the event four or more councilors are unavailable, those officers named in the charter amendment adopted February 20, 1968, shall succeed to the vacancies and perform the functions directed by the charter.

(Section 2.1030 administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

2.1035 Municipal Judge, City Manager, and Department Heads. The municipal judge, the city manager, and the chief officer or head of each department of city government shall designate not less than three nor more than seven emergency interim successors in addition to duly authorized deputies, assistants, or subordinates, and specify the order of succession of the designated emergency interim successors. Designations shall be in writing filed with the city recorder and shall be kept in the public records.

(Section 2.1035 amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

2.1040 Designations.

- (1) Each officer naming a designated emergency interim successor shall review, and as necessary, revise the designations of emergency interim successors to assure that at all times there are at least three such qualified emergency interim successors for each officer specified.
- (2) No person shall be designated or serve as an emergency interim successor unless the person may, under the charter or this Code, hold the office of the person to whose powers and duties he or she is designated to succeed, but no provision of an ordinance prohibiting an officer or employee from holding another office shall be applicable to an emergency interim successor.
- (3) At the time of designations, emergency interim successors shall take the oath provided by law for the office but the emergency interim successors shall not be required to comply with any other provision of law relative to the taking of office as a prerequisite to exercising powers and duties of the office to which they succeed.
- (4) The designation of an individual as an emergency interim successor is

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effective until the individual is removed or replaced by the designating officer or a successor to the office. The designating officer or successor in office may remove or replace individuals so designated at any time, with or without cause.

(Section 2.1040 administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

2.1045 Order of Succession. If an officer named or referred to in sections 2.1015 to 2.1040 and duly authorized deputies are unavailable, the emergency interim successor highest in rank in order of succession who is available shall, except for the power and the duty to appoint emergency interim successors, exercise the powers and discharge the duties of the officer. The emergency interim successor shall exercise these powers and discharge these duties only until the time a lawful incumbent officer or duly authorized deputies or an emergency interim successor higher in rank in order of succession, exercises, or resumes the exercise of, the powers and discharge of the duties of the office, or until, where an actual vacancy exists, a successor is appointed to fill the vacancy or is elected and qualified as provided by law. The council, either by ordinance or resolution, may at any time terminate the authority of emergency interim successors to exercise the powers and duties of the office to which they have succeeded.

2.1050 Changing Council Meeting Locations. Whenever circumstances listed in section 2.1020 prevail, and it becomes imprudent, inexpedient, or impossible to conduct the affairs of the council at the city hall, the council may meet any place within or without the city on the call of the mayor or any two members of the council.

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2.1055 **Emergency Code.**

- (1) **Definitions.** For purposes of this section, the following words and phrases mean:

Disaster. An occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural, technological or human-made cause including fire, flood, earthquake, windstorm, wave action, oil spill or other contamination, radioactive incident, epidemic, air contamination, blight, drought, infestation, explosion, riot, hostile or paramilitary action, or structure failure of a dam, building or infrastructure, or other public calamity requiring emergency action.

Emergency. Any human-made, technological or natural event or circumstance causing or threatening loss of life, injury to persons or property, human suffering or financial loss including but not limited to fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills or releases of petroleum products or other hazardous material, contamination, utility or transportation emergencies, disease, blight, infestation, civil disturbance, riot, sabotage and war.

State of Emergency. A situation which involves an emergency or a disaster.

(2) **Declaration of State of Emergency.**

- (a) The city manager may declare a state of emergency when:
1. An emergency requires a coordinated response beyond that which occurs routinely;
 2. The required response is not achievable solely with the added resources acquired through mutual aid or cooperative assistance agreements; and
 3. The emergency consists of a level 3 emergency under the city's emergency management plan.
- (b) Prior to declaring a state of emergency, the city manager shall contact, or at a minimum use all reasonable efforts to attempt to contact, the mayor and the city councilors to seek their input about declaring a state of emergency. If the city manager is unable to contact a majority of the councilors, then the city manager shall not declare a state of emergency unless the city manager obtains approval of the mayor or one city councilor.
- (c) The city manager shall use an administrative order to declare a state of emergency. Any administrative order declaring a state of emergency shall:
1. Immediately be provided to the city council and mayor;

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2. Designate the geographic boundaries of the area where the state of emergency exists; and
 3. Fix the duration of time in which the state of emergency shall exist. The initial duration shall not exceed a two week period, but may be extended for additional periods of two weeks.
- (d) The city manager may request the Governor to declare a state of emergency within the city. The city manager shall submit the request as provided in state law.
 - (e) The city manager shall terminate the state of emergency in an administrative order when the state of emergency no longer exists or when the threat of an emergency has passed. If the Governor has declared a state of emergency within the city, the city manager shall request the Governor to terminate the declaration.
 - (f) The city council may repeal the city manager's declaration of a state of emergency by majority vote.
- (3) Emergency Interim Succession.**
- (a) If the city manager, for any reason, is unable or unavailable to perform the duties of office under this code during a state of emergency, the duties shall be performed by the first available of those emergency interim successors designated by the city manager under section 2.1035 of this code.
 - (b) The powers of the emergency interim successor to the city manager shall be the same as the city manager and the duration of succession shall be until such time as the city manager is able to perform the duties of office.
- (4) Authority.** Upon the declaration of a state of emergency, in addition to other powers granted to the city manager elsewhere in this code or the city charter, the city manager may:
- (a) Designate persons to coordinate the work of public and private relief agencies operating in the area and exclude from the area, any person or agency refusing to cooperate and work under the coordinator or to coordinate with other agencies engaged in the emergency work.
 - (b) Regulate by rationing, freezing, use of quotas, prohibitions on shipments, price fixing, allocation or other means, the sale or distribution of food, feed, fuel, clothing and other commodities, materials, goods and services.
 - (c) Order the removal of debris and wreckage which may threaten the public health or safety on public or private property consistent with the provisions of section 6.010 of this code.
 - (d) Barricade streets and prohibit vehicular or pedestrian traffic, or regulate the same on any public street leading to the area designated as an emergency area for such distance as may be deemed necessary under the circumstances.
 - (e) Prohibit or limit the number of persons who may gather or congregate upon any public street, public place or any outdoor

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- place within the area designated as an emergency area.
- (f) Establish a curfew for the designated emergency area which fixes the hours during which all persons other than officially authorized personnel may not be upon the public streets or other public places.
 - (g) Prohibit the sale, carrying or possession of any firearms or explosives of any kind on public streets or public places.
 - (h) Establish rent controls and provide temporary or permanent housing by purchase, lease or otherwise and to enter into arrangements necessary to prepare or equip the living units for occupancy.
 - (i) Order the evacuation of persons from designated areas as necessary.
 - (j) Adopt rules for the expeditious issuance of permits necessary to address issues which arise from the emergency or disaster.
 - (k) In accordance with rules adopted under section 2.1230(5) of this code, suspend the applicable public procurement requirements.
 - (l) To the extent sufficient funds are available and budgeted, to redirect city funds to pay expenses incurred as a result of responding to the state of emergency.
 - (m) Appropriate from commercial or industrial businesses merchandise, equipment or vehicles needed to alleviate the emergency. The city shall reimburse the business within 30 days at the customary value charged for the items during the 90-day period before the declaration of the state of emergency. Nothing in Section 2.1055 authorizes the city to take an individual's personal property (including food or other goods).

To the extent that the emergency permits, the city manager shall consult with the mayor and a majority of councilors prior to invoking any of the powers under this subsection. The city manager shall provide the city council with notice of each action the city manager takes pursuant to this subsection. By majority vote, the city council may override the city manager's decision to invoke a power or take action pursuant to this subsection.

- (5) Declaration of Nuisance. Debris or wreckage resulting from a natural disaster or emergency situation is declared to be a nuisance and may be abated as such pursuant to sections 6.080 to 6.115.
- (6) Violation of Measure or Order. No person shall knowingly violate any emergency measure, regulation or lawful order of an authorized city employee or agent taken pursuant to this section.
- (7) Controlling Provisions. In the event of a state of emergency, these code provisions shall control over any conflicting code provisions.

(Section 2.1055 added by Ordinance No. 20164, enacted August 9, 1999, effective September 8, 1999.)

Condominium Conversion

2.1060 Condominium Conversion - Definitions. In sections 2.1060 to 2.1084 of this code, the following words and phrases mean:

Affected tenant. Any tenant who resides in a building to be converted at the time of notice of planned conversion.

Agent. A person who represents or acts for or on behalf of a developer in selling or offering to sell a condominium, or stock cooperative unit, but such term does not include an attorney at law whose representation of another person consists solely of rendering legal services.

Association of unit owners. The association of owners of units of a condominium formed for controlling the administration, management and operation of a condominium or the resident board of directors of any cooperative housing unit project.

Building. A multiple unit building or single unit building, or any combination thereof comprising a part of property.

City manager. The city manager or the manager's designee.

Common elements. The general common elements existing for the benefit of common use of more than two unit or share owners which shall include, where applicable:

- (a) The land whether leased or in fee simple upon which a building is located, except any portion thereof included in a unit or made a limited common element by the declaration of unit ownership;
- (b) The foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, fire escapes, entrances and exits of a building;
- (c) The basements, yards, gardens, parking areas and outside storage spaces;
- (d) Installation of central services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning, waste disposal, and incineration;
- (e) The elevators, tanks, pumps, motors, fans, compressors, ducts, and in general all apparatus and installations existing for common use;
- (f) The premises for the lodging of janitors or caretakers of property; and
- (g) All other elements of the building convenient or necessary to its existence, maintenance, and safety and normally in common use.

A component of a common element is any identifiable part of a common element which may be separately purchased and which has an expected useful life which is different than other parts of the common element.

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Comparable housing. Housing which is decent, safe, and sanitary, in compliance with all applicable municipal codes and open to all persons regardless of race, creed, national origin, ancestry, religion, marital status, or gender. Housing is comparable if it is provided with facilities reasonably similar or equivalent to that provided by the landlord in the dwelling unit in which the tenant then resides in regard to each of the following:

- (a) Apartment size, being no less than 80 percent of the area square footage of the dwelling unit in which the tenant then resides;
 - (b) Rented for an amount no more than 120 percent of the last month's rent paid by the tenant to the owner of the property to be converted. Rent shall not include money paid or charges collected by the lessor for the provision of utility services;
 - (c) The same number of bedrooms;
 - (d) Similar kitchen and bath facilities;
 - (e) Similar special facilities for the particular tenant's needs if that tenant is handicapped or elderly, including but not limited to elevators and security features;
 - (f) Similar cooling and heating systems;
 - (g) Similar accessibility in terms of time and travel and distance from public transportation routes to the tenant's place of employment, community and commercial facilities, schools, medical services, and transportation; and,
 - (h) Such other factors as may be identified in administrative rules issued hereunder. A unit is not comparable if it is located in a building for which a notice of planned conversion has been given or for which reasonable evidence exists that the owner of such building is contemplating conversion to condominium or cooperative units.
- "Comparable housing" does not include: any hotel, motel, or other similar structure or room therein used primarily for transient occupancy, in which at least 60 percent of the rooms is devoted to living quarters for short-term tenants or guests or used for transient occupancy; any rental unit in an establishment which has as its primary purpose the providing of diagnostic care and treatment of diseases, including but not limited to hospitals, convalescent homes, nursing homes, and personal care homes; or any dormitory or institute of higher education, or private boarding school dwelling unit which is provided for student occupancy.

Condominium. Land, whether leasehold or in fee simple, whether contiguous or noncontiguous, and all buildings, improvements, and structures thereon, and all easements, rights and appurtenances to the property where the ownership of such land is shared in undivided interests except for exclusive and separate ownership or right of residency of each residential unit located on the land. "Condominium" shall include all property subject to the provisions of state law on condominium conversion and cooperative housing units.

Condominium instruments. The declaration of unit ownership required to

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be recorded under state law, any supplementary declarations and plats, bylaws for the association of unit owners, the notice of intention or disclosure statements filed pursuant to state law, the condominium public report or examination issued pursuant to state law, the common elements report required under section 2.1070(a) of this code, the informational brochure described in section 2.1070(b)2 of this code, the TAP contract required under section 2.1070(f) of this code, and any other document defined as a condominium instrument under administrative rules issued hereunder. "Condominium instrument" as applied to cooperative housing unit projects shall include any document equivalent to those identified above as well as the articles of incorporation, by-laws, executed regulatory agreements, occupancy or subscription agreements, management contracts, management plans, and applications for mortgage insurance of the cooperative corporation.

Condominium unit. The part of the property consisting of a building or one or more rooms intended for any type of independent residential ownership, the boundaries of which are described in a declaration of unit ownership under state law and which has a direct exit to a public street or highway or to a common area or areas leading to a public street or highway.

Conversion (condominium). The process whereby more than two rental housing units sharing one or more common elements are converted from ownership in whole by a person or group of persons to ownership by several persons whose ownership interests are separate as to residential or commercial units located on the real property. "Condominium conversion" includes the process prescribed by state law for issuance of a declaration of unit ownership, and the process of converting rental units to cooperative housing units, but does not include the process of converting non-residential commercial or industrial buildings to residential condominiums or cooperative housing units.

Cooperative housing. Improved real property owned or leased by a cooperative housing corporation or by any other corporation, partnership, trust or association in which all or substantially all of the shareholders of the corporation, partners of the partnership, beneficiaries of the trust or members of the association receive a right of exclusive occupancy in a rental unit of the building, which right of occupancy is transferable only concurrently with the transfer by any means of the stock, partnership interests, beneficial interest, or membership held by the person having such right of occupancy.

Declaration of unit ownership. The document submitting property to the state unit ownership law filed pursuant to state law.

Developer. A "declarant" under state condominium law, or any person who plans to submit property legally or equitably owned in whole or in part by the person to the provisions of state condominium law, or any person who

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purchases an interest in a condominium from a declarant or subsequent developer for the primary purpose of resale, including any person, entity, or group who purchases or is negotiating a purchase of a building for use as cooperative apartments.

Disabled person. A person who has, at the time of issuance of a condominium conversion permit, a mental, emotional or physical disability or illness of more than a temporary duration that:

- (a) Substantially impairs his or her ability to move about to find or maintain a housing unit without the use of external aids (e.g., wheelchair, cane, walker, guide dog) or without another person's assistance, or without pain; or
- (b) Involves the loss of sight or hearing ability, prevents normal walking or climbing of stairs, or requires a special life support system; or
- (c) Affects his or her ability to make decisions or manage his or her own financial affairs without assistance.

A disability must prevent or make it difficult for the person to carry out regular activities of daily living (e.g., housework, shopping, laundry, meal preparation, personal care such as bathing and dressing). Evidence that would determine the status of disability would include a doctor's certificate, a statement from a health care specialist attesting to the above criteria, a governmental determination of disability, or a worker's compensation determination of greater than 50 percent disability.

Elderly person. A person who is 70 years of age or over at the time of the notice of planned conversion.

Good cause for eviction. An eviction for one or more of the following reasons:

- (a) The tenant has failed to pay rent to which the landlord is entitled within 10 days after it is due;
- (b) The tenant has violated a written obligation or covenant of the tenancy other than the obligation to surrender possession upon proper notice, and has failed to cure such violation for 14 days after receiving written notice thereof from the landlord;
- (c) The tenant has permitted or is permitting a nuisance to exist in or is causing damage to, the rental unit or to the appurtenances thereof, or to the common area to the property containing the rental unit;
- (d) The tenant is creating an unreasonable interference with the comfort, safety, or enjoyment of any of the other residents of the same or any adjacent building;
- (e) The tenant is using or permitting the rental unit to be used for any illegal purpose;
- (f) The tenant, under a terminated written lease or rental agreement, has refused, after receiving written request or demand from the landlord, to execute a written extension or renewal thereof for a further term of like duration with similar provisions and at such terms as are not

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inconsistent with or violative of any provision of sections 2.1060 to 2.1084 of this code.

- (g) The tenant has refused the landlord reasonable access to the unit for the purpose of making repairs or improvements or for the purpose of inspection as permitted or required by the lease or by law or for the purpose of showing the rental unit to any prospective purchaser or mortgagee;
- (h) The person in possession at the end of the lease term is a subtenant not approved by the landlord; or
- (i) The tenancy is conditioned on and in consideration of the tenant's employment as superintendent, manager, janitor, or in some other capacity and such employment is terminated.

Hearings officer. A person appointed by the city manager to decide contested issues arising under sections 2.1060 to 2.1084 of this code.

Lifetime lease. A lease containing the following provisions:

- (a) The tenant shall have the option of canceling the lease at any time upon 30 days written notice to the owner;
- (b) The tenant cannot be evicted except for good cause;
- (c) Right of occupancy shall be nontransferable;
- (d) The rent for the unit shall be set at no more than the rent existing on comparable housing in the same building if such comparable housing exists; and
- (e) Except as provided above, other terms and conditions are the same as those contained in the tenant's current lease, or rental agreement.

Low income person. A person who, at the time of notice of planned conversion, has a current income equal to or less than 80% of the median income on a yearly basis determined for Lane County by the Department of Housing and Urban Development or its successor.

Moving expenses. A fixed sum of money based on the number of rooms of furniture that is intended to cover the cost of moving the tenant's possessions to another location within the urban growth boundary exclusive of expenses attributable to packing and unpacking. For elderly or disabled tenants moving expenses include an additional fixed sum of money intended to cover the costs of packing and unpacking. The amount of moving expenses shall be set by administrative rules issued hereunder.

Permit. A condominium conversion permit issued by the city manager under section 2.1066 of this code.

Rental agreement. All written or oral agreements.

Rental housing unit. A leased residential unit for individual occupancy containing separate kitchen facilities which has a direct exit to a public street

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or highway or to a common area or areas leading to a public street or highway.

Sale. Every final disposition or transfer of a condominium unit or purchase of a cooperative share by a developer, including the offering of the property as a prize or gift when a monetary change or consideration for whatever purpose is required by the developer or the developer's agent.

Share. A certificate of interest, participation, or ownership in a cooperative corporation including any subscription, membership, or occupancy agreement.

Special category tenants. Any person who is elderly, disabled, or low income.

Unit Owner. A developer who owns a unit or share, a person to whom ownership of a unit or share has been conveyed, or a lessee of a unit in a leasehold condominium whose lease expires simultaneously with any lease the expiration or termination of which will remove the unit from the condominium, but not a person having an interest in a unit or share solely as security for an obligation.

(Section 2.1060 added by Ordinance No. 18866, enacted September 14, 1981; amended by Ordinance No. 19469, enacted April 27, 1987, effective May 27, 1987, Ordinance No. 19614, enacted May 22, 1989; Ordinance No. 19771, enacted April 22, 1991, effective May 22, 1991; administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998; amended by Ordinance No. 20371, enacted July 10, 2006, effective July 11, 2006; and amended by Ordinance No. 20387, enacted July 9, 2007, effective August 10, 2007.)

2.1062 Condominium Conversion - Scope of Regulations. Sections 2.1060 to 2.1084 of this code shall be applicable to all conversions of rental housing units to condominiums for which a declaration of unit ownership under state law is filed after June 16, 1980. Sections 2.1060 to 2.1084 of this code apply to the conversion of rental housing units to cooperative apartments, including limited equity stock cooperatives and market stock cooperative units, where articles of incorporation are filed and shares are sold after June 16, 1980. Sections 2.1060 to 2.1084 of this code do not apply to any condominium conversion granted an exemption from the operation of the moratorium under Ordinance No. 18535 and for which project either a public report issued under Oregon Laws, 1977, ch. 484, section 6 or a waiver thereof issued under Oregon Laws, 1977, ch. 484, section 9.

(Section 2.1062 added by Ordinance No. 18866, enacted September 14, 1981, and amended by Ordinance No. 19469, enacted April 27, 1987, effective May 27, 1987.)

2.1064 Condominium Conversion - Limitations.

(1) Notwithstanding any other provision of law, no person may convert nor shall the city permit the conversion of any rental housing unit in the city into a condominium or cooperative housing unit except as provided in

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sections 2.1060 to 2.1084 of this code. Any developer or other person seeking to convert an existing structure to condominium or cooperative ownership shall first apply for and obtain from the city a condominium conversion permit. A permit shall be issued by the city manager, or hearings officer upon appeal or review, after it has been determined that the existing structure and plans conform to all applicable provisions of law and this code. A permit may not be transferred or sold unless such transfer or sale is first approved by the city manager.

- (2) No earlier than 30 days prior to the formal filing of an application for a permit, and concurrently with its delivery to the tenants, the developer shall deliver to the city a copy of a notice of planned conversion and an affidavit providing a list of tenants who received the notice and showing the date or dates of delivery or intended delivery of the notices to the tenants. The notice shall contain written information describing in general:

- (a) What steps and actions the developer and others, including governmental agencies, will or must take in order for the building to be converted to a condominium or stock cooperative;
- (b) How the tenant will be involved, informed, and assisted at each step in the process; and
- (c) What rights the tenants have, whether mandated by law or voluntarily provided by the developer.

The notice shall be in plain and simple language, and contain any additional or specific information required by the city under administrative rules issued hereunder.

- (3) After the notice of planned conversion is given and prior to renting any unit, any prospective tenant shall be notified by the developer or his or her agent, in writing, of the intent to convert and advised that no TAP benefits allowed under section 2.1070(f) of this code will be provided to that tenant.
- (4) No developer or the developer's agent shall sell any converted condominium units or cooperative shares until issuance of a permit by the city. This restriction shall not preclude the entering into of lease-purchase agreements between the developer and prospective purchasers after submission of an application for a permit.

(Section 2.1064 added by Ordinance No. 18866, enacted September 14, 1981; amended by Ordinance No. 19469, enacted April 27, 1987, effective May 27, 1987; administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998; and amended by Ordinance No. 20371, enacted July 10, 2006, effective July 11, 2006.)

2.1066 Condominium Conversion - Permit Process.

- (1) Application. No later than 60 days after the filing of notice of planned conversion, the developer or the developer's agent shall apply for a permit on a form prescribed by the city manager and shall submit as part of this application the information and documents set forth below, together with an application fee in an amount set by the city. The applicant promptly shall post a copy of the entire application in a

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- conspicuous place in the building or buildings to be converted.
- (2) Staff review. Within 30 days from the time of a completed application the city shall issue a staff report on the applicant's compliance with conditions for approval of the permit. The staff report shall be sent to the applicant who shall have 7 days after receipt to submit additional information or material. The applicant promptly shall post a copy of the staff report in a conspicuous place in the building or buildings to be converted.
- (3) Permit approval. Within 14 days after the issuance of the staff report the city manager shall approve or deny the permit and within five days of the decision shall notify the applicant of the decision in writing. The applicant or developer promptly shall notify each affected tenant in writing of the decision of the city manager on the permit application. In addition, the city manager shall mail, by first class mail, a notice of the decision and of the opportunity to appeal to owners and occupants of property located within 100 feet of the property on which the subject condominium is located and to persons who have requested notification. Unless appealed, the city manager's decision is effective on the eleventh day after notice of the decision is mailed.
- (4) Appeal of permit decision.
- (a) Within ten days of the date that notice of the permit decision is mailed by the city manager, it may be appealed to the hearings official by the owner, applicant, a party, an adversely affected person, or a person entitled to notice from the city under subsection (5) of this section. Such appeal shall be instituted by filing a notice of appeal on a form to be provided by the city.
 - (b) Within 45 days of the notice of appeal, the hearings officer shall conduct a public evidentiary hearing on the permit approval or disapproval action of the city manager. The hearing notice and procedures shall conform with the requirements for quasi-judicial hearings provided in sections 9.7065 to 9.7095 of this code. At least 20 days prior to the hearing, the city shall mail notice thereof to the applicant, appellant, persons who requested notice of the city manager's decision, and to persons entitled to notice from the city under subsection (3) of this section.
 - (c) Such appeal shall be limited to the issues of whether the applicant has satisfied the conditions and obligations of the permit approval, whether approval or denial of the permit was an abuse of discretion by the city manager, and whether the information supplied by the applicant in connection with the application is true and correct.
 - (d) The decision of the hearings official on the permit approval or disapproval decision shall be given in writing no later than 15 days after the close of the hearing and record, and such decision shall be final. Within five days of the decision, notice of the decision shall be mailed by first class mail to the applicant, appellant, and persons who requested notification of the decision.

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(Section 2.1066 added by Ordinance No. 18866, enacted September 14, 1981, by Ordinance No. 19469, enacted April 27, 1987, effective May 27, 1987; Ordinance No. 19770, enacted April 22, 1991, effective May 22, 1991; administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998; and administratively amended by Ordinance No. 20249, enacted May 8, 2002, effective June 1, 2002.)

2.1070 Condominium Conversion - Permit Approval. In order to obtain approval by the city manager of an application for a condominium conversion permit, the applicant must satisfy the following conditions and provide the following documents as part of the permit application:

- (a) Common elements report. The applicant shall supply to the city manager a report prepared by a reserve specialist or other professional approved by the City describing the condition and expected useful life of all common elements including the roof, foundation, external and supporting walls, mechanical, electrical, plumbing, heating, all other major mechanical and utility systems, together with an estimate at current market prices of repair or replacement costs for those items requiring immediate major repair or eventual replacement. The report shall separately list the condition and expected life of all components of common elements and shall include the approximate dates of installation of the common elements and components and the dates and description of major repairs or renovations of the common elements and components. The report shall show on each page the date of preparation of the report. It shall clearly disclose which common elements could not be physically inspected and which estimates for these common elements were not made on the basis of a physical inspection. The report shall identify the sources used in the provision of all information, including the condition of common elements, the estimates of expected useful life and repair and replacement costs. The report shall also contain a summary of all city building official records pertaining to each building's major repairs or renovations. The definition of "major repair" and "major renovation" shall be set by administrative rules issued hereunder.
- (b) Applicant's affidavit. The applicant shall file an affidavit attesting to the truth of the following:
 1. That the applicant has notified all tenants residing in the building to be converted and any affected neighborhood group of the permit application. The affidavit shall also state that the applicant has kept signed receipts from all affected tenants certifying that each tenant has received copies of the notice of planned conversion and the proposed tenant assistance plan contract. The applicant shall state in the affidavit that such receipts shall be kept on file in this city by the developer or the developer's agent subject to inspection by the city manager at any reasonable time for a period of three years from the date the receipt is taken. For the purpose of this provision, a refusal to accept notice of intent to convert or the tenant assistance plan contract shall constitute

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- receipt by any affected tenant.
2. That the informational brochure on condominium conversion provided by the city has been distributed to all tenants who reside in the building proposed to be converted.
 3. That no evictions of affected tenants except for good cause have occurred between the date of the notice of planned conversion to the city and the date of the permit application.
- (c) Information provided to state. All issued condominium instruments whose submission is required by administrative rules issued hereunder.
- (d) Rental history. A rental history report containing information required to be submitted under administrative rules issued hereunder.
- (e) Tenant survey. A survey of all affected tenants in the conversion project containing information required to be submitted under administrative rules issued hereunder.
- (f) Tenant assistance plan. Each applicant for a permit shall prepare and supply to the city a tenant assistance plan (TAP). No TAP need be prepared where all of the affected tenants have executed binding offers to purchase their units or shares or have permanently relocated at the time of the permit application. The TAP shall be formalized by a contract between the developer and the city, the execution of which is a prerequisite to city permit approval. Each TAP contract shall contain the following:
1. An obligation on the part of the developer to pay moving expenses of special category affected tenants. The amount of moving expenses to be paid for each type of special category tenant and the time for such payment shall be set by administrative rules issued hereunder.
 2. An agreement by the developer to contract with a housing counselor approved by the city, to assist special category tenants of the building to be converted in locating housing and to act as the developer's sole agent in representing housing as comparable, to special category tenants. The city may withdraw its approval of the housing counselor at any time. The contract between a housing counselor and a developer shall be subject to approval by the city. Such contract shall require the counselor to use the counselor's best efforts to obtain replacement housing which meets the articulated special needs of each special category tenant in addition to being comparable as defined in this code.
 3. An agreement by the developer to offer two comparable housing units to each special category tenant prior to giving any notice of tenancy termination to that tenant. If the status of the offered unit as comparable is contested by the tenant, it shall not constitute such an offer until the decision of the hearings officer on its compatibility. An independent offer is one which is not an outstanding offer to any other tenant and which is, during the period of consideration, an exclusive offer to that tenant. Any

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such obligation on the part of the developer shall not preclude an eviction of any special category tenant for good cause. The agreement to offer comparable housing to a particular tenant may be satisfied by an offer of lifetime tenancy to that tenant.

4. An agreement by the developer not to evict any affected tenant, except for good cause, prior to the expiration of 120 days from the issuance of the permit.
5. An agreement by the developer not to raise the rent of any special category tenant except to an amount equal to or less than rent for comparable housing in the same building if such comparable housing exists.
6. A provision that the contract shall operate in favor of all affected tenants of the building as third party beneficiaries.
7. A provision that the city assumes no liability for the condominium conversion project or the developer's actions or failure to act.
8. A provision that reasonable trial and appellate court attorney's fees shall be paid by the non-prevailing party in any action or suit on the contract.
9. Any other provision required under administrative rules issued hereunder.

A TAP may include any purchase incentives to existing tenants which are offered by the developer.

- (g) Cash reserve escrow account. The developer shall submit proof of establishment of a cash reserve account by the developer for replacement reserves for common elements in an amount and in the manner required by state law. In determining the estimated useful life and replacement costs for the common elements, the developer shall use the estimates set forth in the common elements report.

(Section 2.1070 added by Ordinance No. 18866, enacted September 14, 1981, amended by Ordinance No. 19469, enacted April 27, 1987, effective May 27, 1987; administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998; and amended by Ordinance No. 20371, enacted July 10, 2006, effective July 11, 2006.)

2.1074 Condominium Conversion - Post-Permit Obligations and Procedures.

- (1) Submission of information reports. After issuance of the permit, the developer shall submit to the city manager informational reports on forms provided by the city, pertaining to the tenants of the conversion relocated since the granting of the permit application. The informational reports shall be submitted at the end of any month in which a special category tenant has relocated. The informational reports shall continue to be submitted until all special category tenants have been successfully relocated or offered lifetime leases. The developer shall deliver to the city completed purchaser information forms for each purchaser of a condominium unit. These forms shall be provided to the developer by the city and shall request information on the previous tenure (owner or renter) of each occupant of the condominium unit, and the present tenure status of that occupant's previous dwelling.

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- (2) Limitation on eviction of or rent discrimination against remaining special category tenants. No developer shall evict, except for good cause, any special category tenant prior to the refusal of any such tenant to accept either of two offers of comparable housing by the developer. To be valid, any such offer of comparable housing shall be made to the tenant by the housing counselor. No comparable housing offer shall constitute one of the two required offers unless it is an independent offer. Failure of any such tenant to accept a comparable housing offer within 5 days of the initial offer shall constitute a rejection. In the event that such special category tenant is temporarily immobile because of sickness or injury, such tenant shall have an additional period of 25 days to accept a comparable housing offer.
- (a) No special category tenant residing in the building after issuance of a final condominium conversion permit and prior to the offer to that tenant of two comparable housing units shall be required to pay more rent than the rent charged for comparable housing in the same building or project.
- (3) Termination of housing counselor's services. The services of the housing counselor shall no longer be required upon either the complete relocation of all special category tenants or relocation of some but not all special category tenants and the execution of lifetime leases with the remaining special category tenants.
- (4) Disclosure to purchasers. The developer shall make available to any prospective purchaser a summary of purchaser protection requirements imposed by the city, together with any disclosures required by state law. The developer shall make available to a purchaser of a condominium, copies of issued condominium instruments within ten days of execution of an earnest money contract or offer to purchase the condominium, or no later than five days before the conveyance. The developer shall keep a receipt signed by each purchaser acknowledging that the person entering into a contract to purchase has received or has had the opportunity to review the condominium instruments, and has completed the purchaser information form. Such receipts are to be kept on file in this city by the developer or the developer's agent or affiliate subject to inspection by the city manager at any reasonable time for a period of three years from the date the receipt is taken. Prior to disclosure, the following paragraph must be conspicuously displayed on the first page of each copy of the condominium instrument package:

THE CITY OF EUGENE HAS RECEIVED THE CONDOMINIUM INSTRUMENTS FOR FILING ON _____. THE CITY HAS REVIEWED THE CONDOMINIUM INSTRUMENTS FOR COMPLIANCE WITH THE RESIDENTIAL CONDOMINIUM CODE PROVISIONS OF THE EUGENE CODE, 1971, BUT ASSUMES NO LIABILITY FOR THE PROJECT OR THE DECLARANT'S ACTIONS OR FAILURE TO ACT.

- (5) Update of common elements report. The developer shall update the

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report required under section 2.1070(a) of this code every three (3) years until control of the condominium is transferred from a developer to an association of unit owners. Such update shall include more current information on repair or replacement costs and any new or supplementary information on the condition and expected useful life of the common elements.

- (6) Revocation of conversion permit. A permit may be revoked after notice and a contested case hearing before a hearings officer upon a written finding of fact that the developer has:
- (a) Failed to comply with the terms of a cease and desist order;
 - (b) Been convicted in any court subsequent to the filing of the permit application for a crime involving fraud, deception, false pretenses, misrepresentation, false advertising, or dishonest dealing in real estate transactions;
 - (c) Disposed of, concealed, or diverted any funds or assets of any person so as to defeat the rights of unit purchasers;
 - (d) Intentionally or repeatedly failed to perform any stipulation or agreement made with the city as an inducement to grant or reinstate any permit;
 - (e) Made intentional misrepresentations or concealed material facts in an application for a permit; or,
 - (f) Intentionally or repeatedly violated any provision of sections 2.1060 to 2.1084 of this code.
- Findings of fact shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. A determination of a hearings officer on a revocation of a permit shall be final.

(Section 2.1074 added by Ordinance No. 18866, enacted September 14, 1981, amended by Ordinance No. 19469, enacted April 27, 1987, effective May 27, 1987; administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998; amended by Ordinance No. 20371, enacted July 10, 2006, effective July 11, 2006.)

2.1076 Condominium Conversion - Dispute Resolution; Tenant Eligibility for Benefits.

- (1) Eligibility of tenant as special category tenant. In the event of controversy over whether a tenant is elderly, disabled, or low income and qualifies as a special category tenant, the city manager shall make a determination, which shall be final and non-appealable to a hearings officer. The developer and tenant shall have notice of such requests for determination and opportunity to submit written arguments, comments and affidavits prior to the determination of eligibility by the city manager.
- (2) Status of alternative rental unit as comparable. In the event of a disagreement between the tenant and the developer as to whether an offered alternative dwelling unit is comparable or is an outstanding offer to another special category tenant, such dispute shall initially be mediated by the housing counselor. The tenant or developer may seek a review of the decision of the housing counselor by requesting a

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hearing with the city. Such hearing shall be requested on an application form to be supplied by the city, the contents of which may be governed by administrative rules issued hereunder. The hearing shall be before the hearings officer and shall be conducted within 10 days from the request for a hearing. The determination of the hearings officer shall be final.

(Section 2.1076 added by Ordinance No. 18866, enacted September 14, 1981, and amended by Ordinance No. 19469, enacted April 27, 1987, effective May 27, 1987.)

2.1078 Condominium Conversion - Enforcement.

- (1) Cease and desist orders.** If the city determines that a person has:
 - (a) Violated any provision of sections 2.1060 to 2.1084 of this code;
 - (b) Directly or through an agent or employee knowingly engaged in any false, deceptive or misleading advertising, promotion, or sales method to dispose of a unit;
 - (c) Made any substantial change in the plan of disposition or development of condominiums subsequent to the granting of a permit without notifying the city;
 - (d) Disposed of any units which have not been registered with the city; or
 - (e) Violated any lawful order or rule of the city, the city manager may issue an order requiring the person to cease and desist from the unlawful practice.
- (2) General enforcement power.** If it appears that a person has engaged in or is about to engage in an act or practice constituting a violation of any provision of section 2.1060 to 2.1084 of this code, or rule, regulation, or order thereunder, or failed to faithfully perform any stipulation or agreement made with the city as an inducement to grant or reinstate any permit, the city with or without any prior administrative proceedings may bring an action in the Circuit Court for Lane County to enjoin the acts or practices and to enforce compliance with sections 2.1060 to 2.1084 of this code or any rule, regulation, order, or contract thereunder.
- (3) Criminal proceedings and penalties.**
 - (a) Conversion without permit. Any person converting without a permit shall be guilty of a violation. The penalty for such violation shall be as provided in section 2.1990(4) of this code.
 - (b) False statements; concealment of facts. Any person who wilfully makes an untrue or misleading statement of material facts or willfully omits to provide required data on any document prepared pursuant to sections 2.1060 to 2.1084 of this code shall be guilty of a violation, and upon conviction, shall be subject to a fine as provided in section 2.1990(5) of this code.
- (4) Rulemaking authority.** The city manager is authorized to promulgate any rules necessary for the implementation of sections 2.1060 to 2.1084 of the code which in the discretion of the city manager may be reviewed by the council prior to implementation thereof. Such rules

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may include, but are not limited to, regulations on the permit application process, elaboration of the necessary conditions for permit approval, contents of a TAP contract, the definition of comparable housing, the selection of a housing counselor, the contents of the housing counselor contract, procedural and substantive rules on dispute resolution and enforcement mechanisms, and rules relating to the revocation of conversion permits. Such rules shall be adopted in the manner provided for in section 2.019 of this code.

(Section 2.1078 added by Ordinance No. 18866, enacted September 14, 1981, amended by Ordinance No. 19469, enacted April 27, 1987, effective May 27, 1987; and administratively amended by Ordinance No. 19742, enacted January 14, 1991.)

2.1080 Condominium Conversion - Waiver by City Manager of Conditions for Permit.

- (1)** The city manager may exempt a limited equity cooperative housing unit project from any provision of section 2.1060 to 2.1084 of this code except for the purchaser disclosures required under sections 2.1074(4) and 2.1074(5). Such exemptions may be for any or all of the provisions of sections 2.1060 to 2.1084 of this code, or any part thereof. Any such regulatory exemption shall be granted only where the operation of federal or state law or an executed agreement with a federal or state agency requires the cooperative housing unit project to offer equivalent protection to affected tenants and prospective purchasers and equivalent displacement benefits to relocated tenants as the afforded under section 2.1060 to 2.1084 of this code.
- (2)** The city manager may grant a complete or partial application fee waiver to any such limited equity cooperative housing project if equivalent application fees to governmental agencies, reduced city costs in the processing of the project's permit applications, or past city financial support or funding approval for the particular project make the imposition of such fees unreasonable in his or her judgment.
- (3)** The city manager may issue administrative rules identifying such federal or state regulations, laws, or regulatory programs for housing cooperatives, which duplicate or offer equivalent protection as that afforded under sections 2.1060 to 2.1084 of this code prior to granting any such exemption. Such administrative rulemaking shall solely be initiated upon a petition for rulemaking to the city manager of an interested person. Such petitioner must show that the specific benefits under federal or state regulation are equivalent to the specific benefits granted under sections 2.1060 to 2.1084 of this code. Once these administrative rules have issued, the application of the rules to any permit application shall be determined and adjudicated in the conversion permit process.

(Section 2.1080 added by Ordinance No. 18866, enacted September 14, 1981, and amended by Ordinance No. 19469, enacted April 27, 1987, effective May 27, 1987.)

2.1082 Condominium Conversion - General Provisions.

- (1) Anti-discrimination clause. The developer or owner of any condominium unit within a project shall not discriminate in the sale, or in the terms and conditions of sale of any dwelling unit against any person who was or is a tenant of the building to be converted because such tenant opposed in any manner the conversion of such building to a condominium.
- (2) Variation by agreement. Provisions of section 2.1060 to 2.1084 of this Code may not be varied by agreement and rights conferred by those sections may not be waived prior to the giving of notice of planned conversion. Any tenant benefits allowed under those sections may be waived in writing by a tenant after notice of planned conversion is given if such waiver is entered into in good faith and not for the purpose of completely evading the obligations of the developer, the terms and conditions of the waiver agreement are clearly and fairly disclosed, and adequate consideration for the agreement is specifically stated. A developer may not act under a power of attorney or use any other device to evade the limitations or prohibitions of sections 2.1060 to 2.1084 of this code, or the permits thereunder.
- (3) Obligation of good faith. Every contract or duty governed by sections 2.1060 to 2.1084 of this code imposes an obligation of good faith in its performance or enforcement.
- (4) Retaliation evictions. If a developer has as his or her dominant purpose retaliation against a tenant because of the exercise by the tenant of rights under sections 2.1060 to 2.1084 of this code, because the tenant has expressed an opinion on any matter relating thereto, because of the tenant's denial or refusal to consent to conversion, or because the tenant is a special category tenant, and if the tenant is not in default in payment of his or her rent or otherwise in breach of the rental agreement, the developer may not recover possession of the rental unit in any action or proceeding, cause the tenant to quit involuntarily, or increase the rent or decrease any services to that tenant.
- (5) Delivery of notice and other documents. Unless otherwise provided, all notices, contracts, disclosures, documents and other writings required by sections 2.1060 to 2.1084 of this code to be delivered, shall be delivered personally or by registered or certified mail. A refusal of registered or certified mail by the addressee shall constitute adequate delivery. All documents shall be delivered to the tenant at the address specified in the lease or rental agreement between the tenant and the developer or landlord. If there is no written lease or rental agreement, then the documents shall be delivered to the tenant's address at the converted building. In any sublet unit all documents shall be delivered to the tenant at his or her current address and to the subtenant in possession. If the tenant's current address is unknown, two copies of all documents shall be delivered to the subtenant, one addressed to the tenant, the other addressed to the subtenant.
- (6) Liberal construction. Sections 2.1060 to 2.1084, of this code shall be

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liberally construed and applied to promote the purposes and policies contained therein.

- (7) Severability. If any provision of sections 2.1060 to 2.1084, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect the other provisions or applications of such sections which can be given effect without the invalid provisions or applications, and to this end the provisions of sections 2.1060 to 2.1084 of this code are severable.

(Section 2.1082 added by Ordinance No. 18866, enacted September 14, 1981, and amended by Ordinance No. 19469, enacted April 27, 1987, effective May 27, 1987.)

- 2.1084** **Condominium Conversion - Report on Activity**. The city manager shall report to the council by March 30 on any condominium conversion activity during the previous calendar year. The report shall contain available data and analysis on the following: information on specific projects, data on the neighborhood, city and metropolitan housing market including vacancy rates, new construction, demolitions, household characteristics, issued building permits, and housing costs, analysis on the operation of sections 2.1060 to 2.1084 of this code, demographic data, and such other information that the city manager deems relevant.

(Section 2.1084 added by Ordinance No. 18866, enacted September 14, 1981, and amended by Ordinance No. 19469, enacted April 27, 1987, effective May 27, 1987.)

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MANUFACTURED DWELLING PARK CLOSURES

2.1086 Manufactured Dwelling Park Closures.

(1) Definitions. As used in this section 2.1086, the following words and phrases mean:

Affected tenant. A person who owns and occupies a manufactured dwelling in a manufactured dwelling park and is entitled under a rental agreement to occupy, to the exclusion of others, a manufactured dwelling space in a manufactured dwelling park at the time notice of park closure is given. A person who rents, but does not own the manufactured dwelling located in a manufactured dwelling park is not an “affected tenant” for purposes of this section.

Alternative housing. A manufactured dwelling or other housing which is reasonably similar to the manufactured dwelling owned and occupied by the affected tenant, or a manufactured dwelling space which is reasonably similar to the space then occupied by the affected tenant in terms of location, price, proximity to services, general amenities, and any other factors identified in administrative rules issued hereunder. Housing, or a manufactured dwelling space, is not reasonably similar if it is located in a manufactured dwelling park for which a notice of park closure has been given or for which reasonable evidence exists that the owner is contemplating conversion to other uses.

City manager. The city manager or the manager’s designee.

Conversion. The termination of a rental agreement for a manufactured dwelling and/or manufactured dwelling space by the manufactured dwelling park owner for the purpose of ending manufactured dwelling residential uses of the park and either beginning different land uses or selling the property, which conversion is not required by the exercise of eminent domain or by order of state or local agencies; or, the obtaining of a building permit for a structure located on a site previously used as a manufactured dwelling park within the past two years.

Hearings officer. A person appointed by the city manager to decide contested issues arising under this section 2.1086.

Manufactured dwelling. Includes: a manufactured home constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and was constructed in accordance with federal manufactured housing construction and safety standards and

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regulations in effect at the time of construction; a residential trailer, a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and was constructed before January 1, 1962; a mobile home meeting the above requirements that was constructed between January 1, 1962 and June 15, 1976 and met the construction requirements of Oregon mobile home law in effect at the time of construction, and a manufactured home meeting the above requirements. A “manufactured dwelling” does not mean any building or structure constructed to conform to the State of Oregon Structural Specialty Code or the One and Two Family Dwelling Code adopted pursuant to ORS 455.100 to 455.450 and 455.610 to 455.630 or any unit identified as a recreational vehicle by the manufacturer.

Manufactured dwelling park. Any place where 4 or more manufactured dwellings or manufactured homes are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent or lease space or keep space for rent or lease to any person for a charge or fee paid or to be paid for the rental or lease or use of facilities or to offer space free in connection with securing the trade or patronage of such person. “Manufactured dwelling park” does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than 1 manufactured dwelling per lot if the subdivision was approved by the city, but does include a “manufactured home park.”

Manufactured dwelling park closure. The termination of rental agreements by the park owner so that the park owner can either close the park or convert the park to a different use.

Manufactured dwelling park owner or park owner. The owner, lessor, sub-lessor or manager of a manufactured dwelling park.

Moving/relocation expenses. A sum of money as established in subsection (8) of this section and administrative rules issued hereunder that is intended to compensate affected tenants for losses incurred as a result of a manufactured dwelling park conversion or closure.

Permit. A manufactured dwelling park closure permit issued by the city manager under this section 2.1086.

Rental agreement. All written or oral agreements, and valid rules and regulations adopted under ORS 90.262 embodying the terms and conditions concerning the use and occupancy of a manufactured dwelling or manufactured dwelling space.

(2) Intent. It is the intent of these provisions to mitigate the adverse effects

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of displacement on affected tenants of manufactured dwelling parks that will close or convert to a different use.

- (3) Scope of Regulations. This section 2.1086 shall be applicable to manufactured dwelling park closures and conversions.
- (4) Limitations. Notwithstanding any other provision of law, no person may close or convert, nor shall the city permit the closure or conversion of, any manufactured dwelling park to a different use unless a manufactured dwelling park closure permit has been obtained and a fee paid in the amount set by the city manager under section 2.020 of this code.
- (5) Closure Permit Process.
 - (a) Notice of Park Closure.
 - 1. The park owner shall provide a written notice of park closure to affected tenants of the manufactured dwelling park prior to any closure or conversion of the manufactured dwelling park. The notice shall be given not less than 365 days before the closure date designated in the notice. The notice shall contain the date of park closure, date of termination of tenancy, information on tenant rights and benefits and park owner duties under state and local law, and any other information required by state law, this code, or administrative rules issued hereunder.
 - 2. After the notice of park closure has been given to affected tenants, all prospective tenants of the manufactured dwelling park shall be given written notice of the park closure prior to entering into a rental agreement. The notice shall disclose the estimated date of park closure and that relocation benefits will not be available for such prospective tenants under this code.
 - 3. The written notice of park closure shall be delivered to the city in the manner prescribed by administrative rule at the same time the notice is provided to affected tenants.
 - (b) Application. No later than 60 days after the filing of notice of closure, the park owner, or the park owner's agent (the "applicant") shall apply for a park closure permit on a form prescribed by the city manager. The application shall include all information and documents required by administrative rule issued hereunder and shall include an application fee in an amount set by the city manager. The applicant shall promptly post a copy of the entire application in a conspicuous place within the manufactured dwelling park.
 - (c) Staff review. Within 30 days from the receipt of a completed application the city shall issue a staff report on the applicant's compliance with conditions for approval of the permit. The staff report shall be sent to the applicant who shall have 7 days after receipt to submit additional information or material. The applicant

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shall promptly post a copy of the staff report in a conspicuous place within the manufactured dwelling park.

- (d) Permit approval. Within 14 days after the issuance of the staff report the city manager shall approve or deny the permit. Within five days of the decision the city shall notify the applicant in writing of the decision. The applicant shall promptly notify each affected tenant in writing of the decision of the city manager on the permit application. In addition, the city manager shall mail, by first class mail, a notice of the decision and of the opportunity to appeal to owners and occupants of property located within 100 feet of the property on which the subject manufactured dwelling park is located and to persons who have requested notification. The city manager shall issue a manufactured dwelling park closure permit if the manager finds that the park owner has completed or is contractually obligated to the city to complete the obligations imposed by this section 2.1086. No permit shall be transferred or sold unless such transfer or sale is first approved by the city manager. Unless appealed, the city manager's decision is effective on the eleventh day after notice of the decision is mailed.
- (e) Appeal of permit decision.
1. Within ten days of the date that notice of the permit decision is mailed by the city manager, it may be appealed to the hearings official by the owner, applicant, a party, an affected tenant, or a person entitled to notice from the city under subsection (5)(c) of this section. Such appeal shall be instituted by filing a notice of appeal on a form to be provided by the city.
 2. Within 45 days of the notice of appeal, the hearings officer shall conduct a public evidentiary hearing on the permit approval or disapproval action of the city manager. The hearing notice and procedures shall conform with the requirements for quasi-judicial hearings provided in sections 9.7065 to 9.7095 of this code. At least 20 days prior to the hearing, the city shall mail notice thereof to the applicant, appellant, persons who requested notice of the city manager's decision, and to persons entitled to notice from the city under subsection (5)(c) of this section.
 3. Such appeal shall be limited to the issues of whether the applicant has satisfied the conditions and obligations of the permit approval, whether approval or denial of the permit was an abuse of discretion by the city manager, and whether the information supplied by the applicant in connection with the application is true and correct.
- (f) Revocation of closure permit. A permit may be revoked after notice and a contested case hearing before a hearings officer upon a written finding of fact that the park owner has:
1. Failed to comply with the terms of a cease and desist order;

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2. Been convicted in any court subsequent to the filing of the permit application for a crime involving fraud, deception, false pretenses, misrepresentation, false advertising, or dishonest dealing in real estate transactions;
3. Disposed of, concealed, or diverted any funds or assets of any person so as to defeat the rights of affected tenants;
4. Intentionally or repeatedly failed to perform any stipulation or agreement made with the city as an inducement to grant or reinstate any permit;
5. Made intentional misrepresentations or concealed material facts in an application for a permit; or,
6. Intentionally or repeatedly violated any provision of this section 2.1086.

Findings of fact shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. A determination of a hearings officer on a revocation of a permit shall be final.

- (6) Provision of Housing Information. After notice of park closure to affected tenants, a park owner shall create, maintain, and make available to all affected tenants a current survey showing the total number of manufactured dwelling spaces, the number of vacant manufactured dwelling spaces, rent schedules, and available manufactured dwellings for sale in manufactured dwelling parks located within the urban growth boundary shown on the Metropolitan Area General Plan. The park owner shall update this information at least every four months, or at such intervals as required in administrative rules issued hereunder. The survey shall contain such information as required by the administrative rules issued hereunder.
- (7) Relocation Costs. After the notice of park closure is given, a park owner shall compensate affected tenants for their losses and relocation costs incurred due to the park closure as follows:
 - (a) If the manufactured home can be moved from the park, the park owner shall pay the affected tenant, at the affected tenant's option, and subject to subsection (c), either:
 1. The affected tenant's actual costs incurred for moving the manufactured home to a location within 60 miles from its present location, using the most direct and economical route. Payment will be made within 10 days of receipt by the park owner of a statement reflecting the amount of the costs incurred; or
 2. A flat dollar amount, to be paid prior to the park closure and removal of the manufactured home from the park of:
 - a. \$11,000 for a single wide home;
 - b. \$17,000 for a double wide home; and
 - c. \$21,000 for a triple wide home.

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The amounts established in this subsection shall be periodically adjusted by administrative order of the city manager to reflect changes in the Consumer Price Index.

- (b) If for any reason the manufactured home cannot be moved, prior to the park's closure the park owner shall pay to the affected tenant, at the affected tenant's option, and subject to subsection (c) either:
 - 1. A payment equal to the real market value of the manufactured home as determined by the Lane County Assessor, plus a flat dollar amount to be established by administrative order of the city manager, based on the recommendation of the Housing Policy Board, for the costs of moving the affected tenant's personal property; or
 - 2. A flat dollar amount to be established by administrative order of the city manager, that is equivalent to the amount determined by the federal government for relocation compensation, with a single wide manufactured home considered the equivalent of a two room home; a double wide manufactured home equivalent to a three room home; and a triple wide manufactured home equivalent to a four room home.
 - 3. From the amounts determined due under either 1. or 2. above, the park owner shall first deduct a portion of the park owner's costs incurred in disposing of the abandoned manufactured home consisting of \$1,000 for disposing of a single wide manufactured home, \$2,000 for disposing of a double wide manufactured home, and \$3,000 for disposing of a triple wide manufactured home. The disposal allowances provided herein may be periodically adjusted by administrative order of the city manager to reflect changes in the Consumer Price Index.
- (c) The net amount to be paid by the park owner to an affected tenant under subparagraphs (a) or (b) of this section may be subject to an adjustment if:
 - 1. There is a state subsidy payment available to an affected tenant at the time notice of park closure is given, the amount of the subsidy shall be deducted from the amount determined due the affected tenant under subparagraphs (a) and (b) of this section in arriving at the net amount due.
 - 2. The manufactured dwelling park for which the notice of closure is given is located in an industrial or commercial zone or flood plain, the amount determined due shall be reduced by 50%.
- (8) Housing Counselor. The park owner shall hire a person or entity as a housing counselor for affected tenants who shall assist affected tenants with moving and relocation assistance claims. In addition to any other duties that may be assigned, the housing counselor shall:

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- (a) Explain moving and relocation benefits to affected tenants.
 - (b) Act as a housing referral resource by providing affected tenants with a list of alternative manufactured dwelling parks and other available housing.
 - (c) Provide assistance in locating and securing alternative housing.
 - (d) Assist affected tenants in viewing spaces in parks or alternative housing.
 - (e) Assist affected tenants in understanding rental agreements.
 - (f) Assist affected tenants with arrangements for moving. After notice of park closure is given, no affected tenant shall be evicted for a reason not specified in ORS 90.630 from the manufactured dwelling park or required to pay more rent than the rent charged for a comparable manufactured dwelling or space in the manufactured dwelling park.
- (9) Retaliation Prohibited. If an owner has as his or her dominant purpose retaliation against an affected tenant because of the exercise by the affected tenant of rights under this section 2.1086, because the tenant has expressed an opinion on any matter relating thereto, and the tenant is not in default in payment of his or her rent or otherwise in breach of the rental agreement, the owner may not recover possession of the manufactured dwelling park space in any action or proceeding, cause the tenant to quit involuntarily, or increase the rent or decrease any services to that tenant.
- (10) Enforcement. If it appears that a person has engaged in or is about to engage in an act or practice constituting a violation of any provision of this section 2.1086, or rule, regulation or order thereunder, or failed to faithfully perform any stipulation of agreement made with the city as an inducement to grant or reinstate any permit, the city, with or without any prior administrative proceedings, may bring an action in the Circuit Court for Lane County to enjoin the acts or practices and to enforce compliance with this section 2.1086 or any rule, regulation, order, or contract thereunder. Any person who converts a manufactured dwelling park without a permit shall be guilty of a violation. Any person who willfully makes an untrue or misleading statement of material fact or willfully omits to provide required data on any document prepared pursuant to this section of the code shall be guilty of a violation. The penalty for any such violation shall be as provided in section 2.1990(5) of this code.
- (11) Rulemaking Authority. The city manager is authorized to promulgate any rules necessary for the implementation of this section of the code. These rules shall be adopted in the manner provided for in section 2.019 of this code.

(Section 2.1086, added by Ordinance No. 19614, enacted May 22, 1989; amended by Ordinance No. 19771, enacted April 22, 1991, effective May 22, 1991; and amended by Ordinance No. 20387, enacted July 9, 2007, effective August 10, 2007.)

Liquor Licenses

2.1100 Liquor License Applications - Local Review by City Manager.

- (1)** The city manager or designee is authorized to exercise the authority granted the city council in ORS 471.210(3), 471.210(4) and 472.120. When making the recommendation to the Oregon Liquor Control Commission, the city manager or designee shall review the application for compliance with the provisions of this code and ORS Chapters 471 and 472.
- (2)** Whenever the city manager or designee recommends denial of an application or, if the request is received before a recommendation is made, upon written request of an interested person, the city manager or designee shall state the reasons for his or her recommendation and cause written notice of the decision to be sent to the applicant and the requestor. The written notice shall be hand delivered or sent by certified mail and shall also advise the recipient of the provisions of subsection (3) of this section.
- (3)** Any person aggrieved by the recommendation of the city manager or designee shall within 15 days of the date of the recommendation file his or her objections thereto in writing with the city manager for consideration by a hearings official. The provisions of section 3.060 shall govern the hearing.
- (4)** In exercising the authority granted to the city council in ORS 471.210(4), the city manager shall adopt such rules as may be necessary by utilizing the procedure set forth in section 2.019 of this code.

(Section 2.1100 added by Ordinance No. 18911, enacted January 20, 1982; amended by Ordinance No. 19707, enacted July 23, 1990; and administratively amended by Ordinance No. 19742, enacted January 14, 1991.)

Housing Development Projects

- 2.1102 Housing Development Projects - Purpose.** The purpose of sections 2.1102 to 2.1135 of this code is to provide necessary procedures and standards to carry out the powers granted to the city by ORS 280.410 to 280.485. ORS 280.410 to 280.485 authorize the city to issue revenue bonds to finance or refinance certain housing projects and to make, purchase, service and sell mortgage loans issued in connection with certain housing projects and sections 2.1102 to 2.1135 of this code are to be liberally construed in order to carry out this purpose.

(Section 2.1102 added by Ordinance No. 18962, enacted May 10, 1982.)

- 2.1105 Housing Development Projects - Definitions.** Except where the context otherwise requires, the definitions given in this section govern the construction of sections 2.1102 to 2.1135 of this code.
- (a) Project** means any residential housing development on land within the corporate limits of the city.
 - (b) Eligible project** means a project found by the city to meet the standards adopted pursuant to 2.1102 to 2.1135 of this code.
 - (c) Cost** includes, but is not limited to, the definition of cost at ORS 280.410(4) and other charges and expenses which qualify for payment out of the proceeds of bonds issued under sections 2.1102 to 2.1135 of this code.
 - (d) Committee** means the committee established by the city manager or designee to perform the functions and duties prescribed in sections 2.1110 to 2.1135 of this code.
 - (e) Director** means the person appointed by the city manager as the executive director of the city's planning and development department, or the director's designee.

(Section 2.1105 added by Ordinance No. 18962, enacted May 10, 1982; amended by Ordinance No. 19239, enacted April 11, 1984; Ordinance No. 19317, enacted March 13, 1985; Ordinance No. 19926, enacted June 28, 1993; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

- 2.1110 Housing Development Projects - Applications.**
- (1)** The committee shall be responsible for the receipt of applications and the review and processing thereof. The committee shall make recommendations to the council.
 - (2)** Applications shall be in a form established by the committee and shall include, in addition to other information deemed necessary by the committee, the following:
 - (a)** The applicant's name, address and telephone number;
 - (b)** The form of applicant's business and the names of the applicant's officers and principal owners;
 - (c)** A description of the applicant's history and relevant past performance, including a list of similar projects undertaken by the applicant;

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- (d) A legal description and address of the property upon which the project is to be located;
 - (e) A detailed description of the project including the following: the number, size and type of dwelling units; dimensions of improvements; parcel size, amount of real property covered with buildings and amount of open space; existing zoning; type of construction; public and private access; parking and circulation plans; water, sewer and other utility plans; landscaping; expected uses; land uses on adjacent properties; character of the neighborhood; and preliminary economic feasibility studies and market information including proposed rent or sale schedules or cooperative share prices;
 - (f) A description of the existing use of the property, including any proposal to preserve existing sound residential structures on the development site;
 - (g) A proposed relocation plan for any persons or businesses who would be displaced from existing improvements;
 - (h) A site plan of the project including the following: streets; driveways; sidewalks; pedestrian ways; off-street parking; loading areas; locations and dimension of structures; use of the land and structures; major landscaping features; design of the structure; and existing and proposed utility easements and placements including sanitary sewers, storm sewers, water, electric, gas and telephone lines;
 - (i) Any other information deemed important by the applicant or necessary to fully inform the committee;
 - (j) The estimated cost of the project; and
 - (k) The estimated amount of bonds to be issued and an estimated allocation of the proceeds to costs.
- (3)** An application shall be accompanied by a fee equal to one-twentieth of one percent (1/20 of 1%) of the total proposed bond amount, with a minimum of \$500 and a maximum of \$5,000, to cover the cost of review and processing of the application.
- (4)** Submission of an application shall constitute a covenant by the applicant that if the project is approved as an eligible project, the applicant shall:
- (a) Pay all costs incurred by the city in review and processing of the application and for issuance of the bonds, including legal, consulting, accounting, reimbursement for staff time and other expenses;
 - (b) Comply with all applicable federal, state and city laws which concern the project and its development and financing; and
 - (c) Permit the recording of such conditions, covenants and restrictions affecting the property upon which the project is located as are required by the city to insure that the project is developed, financed and maintained in compliance with all requirements and conditions imposed by the city in granting approval of the project.

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(Section 2.1110 added by Ordinance No. 18962, enacted May 10, 1982.)

2.1115 Housing Development Projects - Initial Review and Standards.

- (1)** Upon receipt of an application, the committee shall review the application to determine whether the project is to be recommended to the council as an eligible project. The committee shall hold public hearings and receive oral and written testimony concerning the project. In reaching its determination, the committee may require such additional information from the applicant as the committee deems necessary.
- (2)** After reviewing an application, the committee shall approve, approve with conditions or deny the application. In making its determination, the committee shall make findings that the project meets the standards described in paragraph (1) of section 2.1120 of this code and shall also consider the factors described in paragraph (2) of section 2.1120 of this code.

(Section 2.1115 added by Ordinance No. 18962, enacted May 10, 1982.)

2.1120 Housing Development Projects - Eligibility Standards.

- (1)** No project shall be approved as an eligible project by the committee or council unless each of the following standards have been met or will be met as a precondition to final approval:
 - (a)** There exists a need for the housing to be generated by the project;
 - (b)** The project is economically feasible;
 - (c)** The project may be unable to obtain private mortgage financing or may be economically unfeasible with private mortgage financing;
 - (d)** The project complies with all applicable federal, state and city laws, including ORS 280.410 to 280.435;
 - (e)** The interest on bonds issued to finance or refinance the project or to make, purchase, service or sell mortgage loans issued in connection with the project will be exempt from federal income taxes under Section 103(a)(1) of the Internal Revenue Code of 1954, as amended, or its successor provision; and
 - (f)** The project is consistent with all adopted city plans and policies, including applicable zoning and land use regulations.
- (2)** In making a determination on an application, the committee and council shall consider the following factors as guidelines. Deficiencies in one factor may be offset by significant advantages of the project.
 - (a)** The general benefits and detriments of the project to the city;
 - (b)** The density of use and potential impact on the area affected by the project;
 - (c)** The city's ability to supply or support urban services required by the project and the effect of the project on the city's ability to supply or support urban services to other areas;
 - (d)** The effect of the issuance of the bonds anticipated by the project upon the bond credit rating of the city and the city's housing

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- revenue bond authority; and
- (e) The effect of the project and any proposed relocation plan on persons and businesses who will be dislocated or adversely affected by the project.

(Section 2.1120 added by Ordinance No. 18962, enacted May 10, 1982.)

2.1125 Housing Development Projects - Timing of Determinations of Eligibility.

- (1) Within 30 days of receipt of an application the staff of the committee shall prepare a written recommendation to the committee of approval, approval with conditions, or denial of the application, and the reasons supporting the recommendation.
- (2) Within 45 days of receipt of the recommendation of the staff of the committee, the committee shall by resolution approve, approve with conditions or deny the application.
- (3) If the committee recommends approval or approval with conditions of the application, the committee shall submit its recommendation by resolution to the council. Upon receipt of the recommendation of the committee and review of the factors described in section 2.1120 of this code, the council shall within 60 days by resolution approve, approve with conditions or deny the application. If the application is approved or approved with conditions, the resolution shall direct the committee to further process the application.
- (4) If the committee denies an application, the applicant shall be notified in writing within 10 days of the determination. The notice shall specify the reasons for denial. The applicant may appeal the denial by filing a written notice with the staff of the committee within 14 days of receipt of the notice of denial. The notice of appeal shall recite the name of the applicant, date of denial by the committee and the grounds for appeal. Within 60 days after filing the notice of appeal, the council shall review the application and approve, approve with conditions or deny the application. If the application is approved or approved with conditions, the resolution shall direct the committee to further process the application.

(Section 2.1125 added by Ordinance No. 18962, enacted May 10, 1982.)

2.1130 Housing Development Projects - Application Processing, Financial Considerations.

- (1) Upon receipt of a resolution approving and directing the further processing of an application, the director shall consider:
 - (a) The bond market for the types of bonds proposed for issuance;
 - (b) The terms and conditions of the bonds proposed for issuance;
 - (c) Whether the applicant is financially and otherwise responsible and fully capable and willing to fulfill its obligations under the project, ORS 280.410 to 280.485 and sections 2.1102 to 1.1135 of this code; and
 - (d) Such other relevant factors as the director considers necessary to protect the financial integrity of the city and the project.

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- (2) The director shall review the factors described in paragraph (1) of this section. If the director determines that the proposed bond issue is financially feasible and meets all applicable requirements, the director shall recommend to the council adoption of a resolution designating an underwriter, trustee and bond counsel and authorizing the execution of appropriate agreements with each to carry out the project and issue the bonds.

(Section 2.1130 added by Ordinance No. 18962, enacted May 10, 1982; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)

2.1135 Housing Development Projects - Bond Issuance. Upon receipt of the recommendation of the director and review of the factors described in section 2.1130 of this code, the council may by ordinance authorize the issuance of bonds in an amount equal to the costs of the proposed projects, pursuant to ORS 280.410 to 280.485.

(Section 2.1135 added by Ordinance No. 18962, enacted May 10, 1982.)

Public Contracts

2.1400 **Public Contracts – City Policy.**

- (1) **Short Title.** The provisions of sections 2.1400 to 2.1450 of this code, and all administrative rules adopted thereunder may be cited as the City of Eugene Public Contracting Regulations.
- (2) **Purpose.** It is the policy of the city in adopting public contracting regulations to utilize public contracting practices and methods that maximize the efficient use of public resources and the purchasing power of public funds by:
 - (a) Promoting impartial and open competition;
 - (b) Using solicitation materials that are complete and contain a clear statement of contract specifications and requirements; and
 - (c) Taking full advantage of evolving procurement methods that suit the contracting needs of the city as they emerge within various industries.
- (3) **Interpretation.** In furtherance of the purpose of the objectives set forth in subsection (2), it is the city's intent that sections 2.1400 to 2.1450 be interpreted to authorize the full use of all contracting powers and authorities described in ORS Chapters 279A, 279B and 279C.

(Section 2.1400 added by Ordinance No. 20341, enacted and effective March 2, 2005.)

2.1405 **Public Contracts – Exemption from Public Contracting Regulations.**

The City of Eugene Public Contracting Regulations apply to all public contracts of the city except for the classes of contracts that are declared exempt from the Oregon Public Contracting Code, which shall be set forth in the rules adopted by the purchasing agent.

(Section 2.1405 added by Ordinance No. 20341, enacted and effective March 2, 2005.)

2.1410 **Public Contracts – Regulation by City Council.** Except as expressly delegated under sections 2.1400 to 2.1450, the city council reserves to itself the exercise of all of the duties and authority of a contract review board under state law, including, but not limited to, the power and authority to:

- (1) **Solicitation Methods Applicable to Contracts.** Approve the use of contracting methods and exemptions from contracting methods for a specific contract or certain classes of contracts;
- (2) **Brand Name Specifications.** Exempt the use of brand name specifications for public improvement contracts;
- (3) **Waiver of Performance and Payment Bonds.** Approve the partial or complete waiver of the requirement for the delivery of a performance or payment bond for construction of a public improvement other than in cases of emergencies;
- (4) **Electronic Advertisement of Public Contracts.** Authorize the use of electronic advertisements for public contracts in lieu of publication in a newspaper of general circulation; and

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- (5) **Appeals of Debarment and Prequalification Decisions.** Hear properly filed appeals of the purchasing agent's determination of debarment, or concerning prequalification.

(Section 2.1410 added by Ordinance No. 20341, enacted and effective March 2, 2005.)

2.1415 Public Contracts - Authority of Purchasing Agent.

- (1) **General Authority.** The city manager shall be the purchasing agent for the city and is hereby authorized to award all city contracts for which there is an appropriation. Subject to the provisions of sections 2.1400 to 2.1450 of this code, the purchasing agent may adopt and amend all rules, regulations, procedures and forms required or permitted to be adopted by contracting agencies under the Oregon Public Contracting Code or otherwise convenient for the city's contracting needs. Without limiting the generality of the foregoing, the purchasing agent shall adopt public contracting rules for the award of personal services contracts and concession agreements and shall hear all solicitation and award protests.
- (2) **Standards for Contracting Rules.** When adopting public contracting rules, the purchasing agent shall establish practices and procedures that:
- (a) Do not encourage favoritism or substantially diminish competition;
 - (b) Allow the city to take advantage of the cost-saving benefits of alternative contracting methods and practices;
 - (c) Give preference to goods and services that have been manufactured or produced in the State of Oregon if price, fitness, availability and quality are otherwise equal;
 - (d) Give preference to goods that are certified to be made from recycled products when such goods are available, can be substituted for non-recycled products without a loss in quality, and the cost of goods made from recycled products is not significantly more than the cost of goods made from non-recycled products; and
 - (e) Establish purchasing practices that assure, to the maximum extent economically feasible, purchase of materials, goods and supplies that may be recycled or reused when discarded.
- (3) **Delegation of Authority.** Any of the responsibilities or authorities of the purchasing agent under Sections 2.1400 to 2.1450 of this code may be delegated and sub-delegated by administrative order.
- (4) **Mandatory Review of Rules.** Whenever the Oregon State Legislative Assembly enacts laws that cause the attorney general to modify its model rules, the purchasing agent shall review the city's public contracting regulations to determine whether any modifications to the regulations need to be adopted by the city to ensure compliance with statutory changes.

(Section 2.1415 added by Ordinance No. 20341, enacted and effective March 2, 2005.)

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2.1420 Public Contracts – Definitions. The following terms used in sections 2.1400 to 2.1450 shall have the meanings set forth below.

Bid. A binding, sealed written offer to provide goods, services or public improvements for a specified price or prices.

Concession agreement. A contract that authorizes and requires a private entity or individual to promote or sell, for its own business purposes, specified types of goods or services from real property owned or managed by the city, and under which the concessionaire makes payments to the city based, at least in part, on the concessionaire's revenues or sales. The term "concession agreement" does not include a mere rental agreement, license or lease for the use of premises.

Contract price. The total amount paid or to be paid under a contract, including any approved alternates, and any fully executed change orders or amendments.

Contract review board. The city council.

Cooperative procurement. A procurement conducted by or on behalf of more than one contracting agency.

Debarment. A declaration by the purchasing agent under ORS 279B.130 or ORS 279C.440 that prohibits a potential contractor from competing for the city's public contracts for a prescribed period of time.

Disposal. Any arrangement for the transfer of property by the city under which the city relinquishes ownership.

Emergency. Circumstances that could not have been reasonably foreseen; create a substantial risk of loss, damage or interruption of services or a substantial threat to property, public health, welfare or safety; and require prompt execution of a contract to remedy the condition.

Energy savings performance contract. A contract with a qualified energy service company for the identification, evaluation, recommendation, design and construction of energy conservation measures that guarantee energy savings or performance.

Findings. The statements of fact that provide justification for a determination. Findings may include, but are not limited to, information regarding operation, budget and financial data; public benefits; cost savings; competition in public contracts; quality and aesthetic considerations, value engineering; specialized expertise needed; public safety; market conditions; technical complexity; availability, performance and funding sources.

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Goods. Includes any item or combination of supplies, equipment materials or other personal property, including any tangible, intangible and intellectual property and rights and licenses in relation thereto.

Informal solicitation. A solicitation made in accordance with rules adopted by the purchasing agent to a limited number of potential contractors, in which the solicitation agent attempts to obtain at least three quotes or proposals.

Invitation to bid. A publicly advertised request for competitive sealed bids.

Offeror. A person who submits a bid, quote or proposal to enter into a public contract with the city.

Oregon Public Contracting Code. ORS chapters 279A, 279B and 279C.

Person. A natural person or any other private or governmental entity, having the legal capacity to enter into a binding contract.

Proposal. A binding offer to provide goods, services or public improvements with the understanding that acceptance will depend on the evaluation of factors other than, or in addition to price. A proposal may be made in response to a request for proposals or under an informal solicitation.

Personal services contract. A contract with an independent contractor predominantly for services that require special training or certification, skill, technical, creative, professional or communication skills or talents, unique and specialized knowledge, or the exercise of judgment skills, and for which the quality of the service depends on attributes that are unique to the service provider. Such services include, but are not limited to the services of architects, engineers, land surveyors, attorneys, auditors and other licensed professionals, artists, designers, computer programmers, performers, consultants and property managers. The purchasing agent shall have discretion to determine whether additional types of services not specifically mentioned in this paragraph fit within the definition of personal services.

Public contract. A sale or other disposal, or a purchase, lease, rental or other acquisition by the city of personal property, services, including personal services, public improvements, public works, minor alterations, emergency construction or repair work or ordinary repair or maintenance necessary to preserve a public improvement.

Public improvement. A project for construction, reconstruction or major renovation on real property by or for the city. "Public improvement" does not include:

- (a) Projects for which no funds of the city are directly or indirectly used, except for participation that is incidental or related primarily to project design or inspection; or

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- (b) Emergency construction or repair work, minor alteration, ordinary repair or maintenance necessary to preserve a public improvement.

Purchasing agent. The city manager or a designee appointed by the city manager to exercise the authority of the purchasing agent under the city's public contracting regulations.

Quote. A price offer made in response to an informal or qualified pool solicitation to provide goods, services or public improvements.

Request for proposals. A publicly advertised request for sealed competitive proposals.

Services. Includes all types of services (including construction labor) other than personal services.

Solicitation. An invitation to one or more potential contractors to submit a bid, proposal, quote, statement of qualifications or letter of interest to the city with respect to a proposed project, procurement or other contracting opportunity. The word "solicitation" also refers to the process by which the city requests, receives and evaluates potential contractors and awards public contracts.

Solicitation agent. With respect to a particular solicitation or contract, the city manager or employee delegated responsibility for conducting the solicitation and awarding the contract.

Solicitation documents. Includes all informational materials issued by the city for a solicitation, including, but not limited to advertisements, instructions, submission requirements and schedules, award criteria, contract terms and specifications, and all laws, regulations and documents incorporated by reference.

Surplus property. Personal property owned by the city which is no longer needed for use by the department to which such property has been assigned.

Telecommunication services. Two way switched access and transport of voice communications but does not include: (a) services provided by radio common carrier, (b) one-way transmission of television signals, (c) surveying, (d) private telecommunication networks, or (e) communications of the city which take place on the city's side of on-premises equipment.

(Section 2.1420 added by Ordinance No. 20341, enacted and effective March 2, 2005; and amended by Ordinance No. 20409, enacted May 27, 2008, effective June 30, 2008.)

2.1425 Public Contracts - Process for Approval of Special Solicitation Methods

and Exemptions.

- (1) Authority of City Council.** In its capacity as contract review board for the city, the city council, upon its own initiative, or upon request of the purchasing agent, may create special selection, evaluation and award procedures for, or may exempt from competition, the award of a specific contract or class of contracts as provided in this section 2.1425.
- (2) Basis for Approval.** The approval of a special solicitation method or exemption from competition must be based upon a record before the city council that contains findings to support the reason that approval of the request would be unlikely to encourage favoritism or diminish competition for the public contract or class of public contracts, or would otherwise substantially promote the public interest in a manner that could not practicably be realized by complying with the solicitation requirements that would otherwise be applicable under these regulations. In making a determination regarding a special selection method, the city council may consider the type, cost, amount of the contract or class of contracts, number of persons available to make offers, and such other factors as it may deem appropriate.
- (3) Hearing.**

 - (a) The city shall approve the special solicitation or exemption after a public hearing before the city council following notice by publication in at least one newspaper of general circulation in the Eugene/ Springfield metropolitan area at least 7 days prior to the hearing.
 - (b) At the public hearing, the city shall offer an opportunity for any interested party to appear and present comment.
 - (c) The city council shall consider the findings, any comments or testimony presented at the hearing, and may approve the exemption as proposed or as modified by the council in response to the comments received.
- (4) Special Requirements for Public Improvement Contracts.**

 - (a) Notification of the public hearing shall be published in a trade newspaper of general statewide circulation at least 14 days prior to the hearing.
 - (b) The notice shall state that the public hearing is for the purpose of taking comments on the city's draft findings for an exemption from the standard solicitation method. At the time of the notice, copies of the draft findings shall be made available to the public.
- (5) Commencement of Solicitation Prior to Approval.** A solicitation may be issued prior to the approval of a special exemption under this section 2.1425, provided that the closing of the solicitation may not be earlier than 5 days after the date of the hearing at which the city council approves the exemption. If the city council fails to approve a requested exemption, or requires the use of a solicitation procedure other than the procedures described in the issued solicitation documents, the issued solicitation may either be modified by addendum, or canceled.

(Section 2.1425 added by Ordinance No. 20341, enacted and effective March 2, 2005.)

2.1430 Public Contracts - Solicitation Methods for Classes of Contracts. The following solicitation methods and the classes of contracts that may be awarded under such methods are hereby established by the city council.

- (1) Purchases from Nonprofit Agencies for Individuals with Disabilities.** When available, the city shall purchase goods, services and public improvements from qualified nonprofit agencies for individuals with disabilities in accordance with the provisions of ORS 279.835 through 279.850 and rules adopted by the purchasing agent.
- (2) Public Improvement Contracts.**
 - (a) Any public improvement. Unless otherwise provided in these regulations or approved for a special exemption, public improvement contracts in any amount may be issued under an invitation to bid.
 - (b) Public improvements up to \$100,000. Public improvement contracts for which the estimated contract price does not exceed \$100,000 may be awarded using an informal solicitation for quotes in accordance with rules adopted by the purchasing agent.
 - (c) Transportation public improvements up to \$50,000. Contracts for which the estimated contract price does not exceed \$50,000, for highways, bridges or other transportation projects may be awarded using an informal solicitation for quotes in accordance with rules adopted by the purchasing agent.
 - (d) Public improvements up to \$5,000. Contracts for public improvements for up to \$5,000 are not subject to competitive solicitation requirements and may be awarded in any manner provided by the purchasing agent's rules and, subject to rules adopted by the purchasing agent, may be awarded at the discretion of the solicitation agent.
 - (e) City funded privately-constructed public improvements. The city may contribute funding to a privately constructed public improvement project (commonly known as a "PEPI") without subjecting the project to competitive solicitation requirements if all of the following conditions are met with respect to the entire public improvement project:
 1. The city's contribution to the project may not exceed 25% of the total cost of the project;
 2. The city must comply with all applicable laws concerning the reporting of the project to the Bureau of Labor and Industries as a public works project;
 3. The general contractor for the project must agree in writing to comply with all applicable laws concerning reporting and payment of prevailing wages for the project;
 4. The funds contributed to the project may not provide a pecuniary benefit to the owner of the development for which the project is being constructed, other than benefits that are shared by all members of the community;

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5. The performance of the general contractor and the payment of labor for the project must be secured by performance and payment bonds or other cash-equivalent security that is acceptable to the purchasing agent to protect the city against defective performance and claims for payment, unless the city's obligation to make a payment is conditioned upon final completion of the public improvement and proof of, or security for payment that is acceptable to the purchasing agent; and,
 6. The contract for construction of the project must be amended, as necessary, to require the general contractor to maintain adequate workers compensation and liability insurance and to protect and provide indemnification to the city for all claims for payment, injury or property damage arising from or related to the construction of the project.
- (3) **Personal Services Contracts.** The purchasing agent shall adopt such rules for the selection and award of contracts for personal services as the purchasing agent, in his or her sole discretion deems appropriate.
- (4) **Hybrid Contracts.** The following classes of contracts include elements of construction of public improvements as well as personal services and may be awarded under a request for proposals, unless exempt from competitive solicitation.
- (a) Design/build and CM/GC contracts. Contracts for the construction of public improvements using a design/build or construction manager/general contractor construction method shall be awarded under a request for proposals. The determination to construct a project using a design/build or construction manager/general contractor construction method must be approved by the city manager or the city manager's designee, upon application of the solicitation agent, in which the solicitation agent submits facts that support a finding that the construction of the improvement under the proposed method is likely to result in cost savings, higher quality, reduced errors, or other benefits to the city.
 - (b) Energy savings performance contracts. Unless the contract qualifies for award under another classification in this section 2.1430, contractors for energy savings performance contracts shall be selected under a request for proposals.
- (5) **Contracts for Goods and Services.**
- (a) Any procurement. The procurement of goods or services, or goods and services in any amount may be made under either an invitation to bid or a request for proposals.
 - (b) Procurements up to \$150,000. The procurement of goods or services, or goods and services, for which the estimated contract price does not exceed \$150,000 may also be made under an informal solicitation for either quotes or proposals.

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(6) **Contracts Subject to Award at Solicitation Agent's Discretion.**

Subject to regulation under rules adopted by the purchasing agent, the following classes of contracts may be awarded in any manner which the solicitation agent deems appropriate to the city's needs, including by direct appointment or purchase.

- (a) Advertising. Contracts for the placing of notice or advertisements in any medium.
- (b) Amendments. Contract amendments shall not be considered to be separate contracts if made in accordance with rules adopted by the purchasing agent.
- (c) Animals. Contracts for the purchase of animals.
- (d) Contracts up to \$5,000. Contracts of any type for which the contract price does not exceed \$5,000 may be awarded and amended as provided in rules adopted by the purchasing agent.
- (e) Copyrighted and library materials. Contracts for the acquisition of materials entitled to copyright, including, but not limited to, works of art and design, literature, music and library lending materials.
- (f) Equipment repair. Contracts for equipment repair or overhauling, provided the service or parts required are unknown and the cost cannot be determined without extensive preliminary dismantling or testing.
- (g) Goods for resale. Contracts for goods purchased for resale to consumers.
- (h) Government regulated items. Contracts for the purchase of items for which prices or selection of suppliers are regulated by a governmental authority.
- (i) Insurance. Insurance and service contracts as provided for under ORS 414.115, 414.125, 414.135 and 414.145.
- (j) Non-owned property. Contracts or arrangements for the sale or other disposal of used abandoned property or other personal property not owned by the city.
- (k) Renewals. Contracts that are being renewed in accordance with their terms are not considered to be newly issued contracts and are not subject to competitive procurement procedures.
- (l) Sole source contracts. Contracts for goods or services which are available from a single source may be awarded without competition. The purchasing agent shall adopt rules under which a determination of sole source availability may be made.
- (m) Sponsorship agreements. Sponsorship agreements, under which the city receives a gift or donation in exchange for recognition of the donor.
- (n) Structures. Contracts for the disposal of structures located on city-owned property, other than structures suitable for residential use.
- (o) Temporary extensions or renewals. Contracts for a single period of one year or less, for the temporary extension or renewal of an

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expiring and non-renewable, or recently expired, contract, other than a contract for public improvements.

- (p) Temporary use of city-owned property. The city may negotiate and enter into a license, permit or other contract for the temporary use of city-owned property without using a competitive selection process if:
 - 1. The contract results from an unsolicited proposal to the city based on the unique attributes of the property or the unique needs of the proposer;
 - 2. The proposed use of the property is consistent with the city's use of the property and the public interest; and
 - 3. The city reserves the right to terminate the contract without penalty, in the event that the city determines that the contract is no longer consistent with the city's present or planned use of the property or the public interest.
- (q) Used property. A solicitation agent, for procurements up to \$20,000, and the purchasing agent, for procurements in excess of \$20,000 may contract for the purchase of used property by negotiation if such property is suitable for the city's needs and can be purchased for a lower cost than substantially similar new property. For this purpose the cost of used property shall be based upon the life-cycle cost of the property over the period for which the property will be used by the city. A record shall be made of the findings that support any purchase over \$10,000.
- (r) Utilities. Contracts for the purchase of steam, power, heat, water, telecommunications services, and other utilities, including in-kind telecommunications services pursuant to EC 3.415(6).

- (7) **Contracts Required by Emergency Circumstances.** The purchasing agent may declare that an emergency exists in order to prevent substantial damage or injury to persons or property. The purchasing agent shall notify the city council of the declaration of emergency, if made, and the facts and circumstances surrounding the emergency execution of the contract, as soon as possible, in light of the emergency circumstances. The purchasing agent shall ensure competition for a contract for the emergency work that is reasonable and appropriate under the emergency circumstances. The purchasing agent shall set a solicitation time period that the purchasing agent determines to be reasonable under the emergency circumstances and issue written or oral requests for offers or make direct appointments without competition in cases of extreme necessity. The purchasing agent shall document the nature of the emergency; the method used for selection of the particular contractor; and the reason why the selection method was deemed in the best interest of the city and the public. Any contract awarded under emergency conditions must be awarded within 60 days following the declaration of an emergency.

- (8) **Federal Purchasing Programs.** Goods and services may be purchased without competitive procedures under a local government

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purchasing program administered by the United States General Services Administration ("GSA") in accordance with rules adopted by the purchasing agent.

- (9) Cooperative Procurement Contracts.** Cooperative procurements may be made without competitive solicitation as provided in the Oregon Public Contracting Code and under rules adopted by the purchasing agent.
- (10) Surplus Property.** The purchasing agent shall adopt rules for the disposal of all surplus property. The purchasing agent's rules shall include rules under which nonprofit corporations may lease or purchase structures suitable for use as residential buildings that are declared surplus property and must be removed from city-owned property. The rules shall give preferences to nonprofit corporations who will use the structure to provide housing for persons of low income, or who are otherwise disadvantaged.
- (11) Concession Agreements.** The purchasing agent shall adopt rules for the award of concession agreements.

(Section 2.1430 added by Ordinance No. 20341, enacted and effective March 2, 2005; and amended by Ordinance No. 20409, enacted May 27, 2008, effective June 30, 2008.)

2.1435 Public Contracts - Use of Brand Name Specifications for Public Improvements.

- (1) In General.** Specifications for contracts shall not expressly or implicitly require any product by one brand name or mark, nor the product of one particular manufacturer or seller, except for the following reasons:

 - (a) It is unlikely that such exemption will encourage favoritism in the awarding of public improvement contracts or substantially diminish competition for public improvement contracts; or
 - (b) The specification of a product by brand name or mark, or the product of a particular manufacturer or seller, would result in substantial cost savings to the city; or
 - (c) There is only one manufacturer or seller of the product of the quality required; or
 - (d) Efficient utilization of existing equipment, supplies requires the acquisition of compatible equipment or supplies.
- (2) Authority of Purchasing Agent.** The purchasing agent shall have authority to determine whether an exemption for the use of a specific brand name specification should be granted by recording findings that support the exemption based on the provisions of subsection (1).
- (3) Brand Name or Equivalent.** Nothing in this section 2.1435 prohibits the city from using a "brand name or equivalent" specification, from specifying one or more comparable products as examples of the quality, performance, functionality or other characteristics of the product needed by the city, or from establishing a qualified product list under rules adopted by the purchasing agent.

(Section 2.1435 added by Ordinance No. 20341, enacted and effective March 2, 2005.)

2.1440 Public Contracts - Bid, Performance and Payment Bonds.

- (1) **Solicitation Agent May Require Bonds.** The solicitation agent may require bid security and a good and sufficient performance and payment bond even though the contract is of a class that is exempt from the requirement under this section 2.1440.
- (2) **Bid/Proposal Security.** Except as otherwise exempted, the invitation to bid or request for proposals for all contracts that include the construction of a public improvement shall require bid or proposal security.
- (3) **Performance Bonds.**

 - (a) General. Except as provided in sections 2.1400 to 2.1450 of this code, all public contracts are exempt from the requirement for the furnishing of a performance bond.
 - (b) Contracts involving public improvements. Prior to executing a contract for more than \$50,000 that includes the construction of a public improvement, the contractor must deliver a performance bond in an amount equal to the full contract price conditioned on the faithful performance of the contract in accordance with the plans, specifications and conditions of the contract. The performance bond must be solely for the protection of the city and any public agency that is providing funding for the project for which the contract was awarded.
 - (c) Cash-in-lieu. The purchasing agent may permit the successful offeror to submit a cashier's check or certified check in lieu of all or a portion of the required performance bond.
- (4) **Payment Bonds.**

 - (a) General. Except as provided in sections 2.1400 to 2.1450 of this code, all public contracts are exempt from the requirement for the furnishing of a payment bond.
 - (b) Contracts involving public improvements. Prior to executing a contract for more than \$50,000 that includes the construction of a public improvement, the contractor must deliver a payment bond equal to the full contract price, solely for the protection of claimants under ORS 279C.600.
- (5) **Design/Build Contracts.** If the public improvement contract is with a single person to provide both design and construction of a public improvement, the obligation of the performance bond for the faithful performance of the contract must also be for the preparation and completion of the design and related services covered under the contract. Notwithstanding when a cause of action, claim or demand accrues or arises, the surety is not liable after final completion of the contract, or longer if provided for in the contract, for damages of any nature, economic or otherwise and including corrective work, attributable to the design aspect of a design-build project, or for the costs of design revisions needed to implement corrective work.
- (6) **Construction Manager/General Contractor Contracts.** If the public improvement contract is with a single person to provide construction

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manager and general contractor services, in which a guaranteed maximum price may be established by an amendment authorizing construction period services following preconstruction period services, the contractor shall provide the bonds required by subsection (1) of this section upon execution of an amendment establishing the guaranteed maximum price. The city shall also require the contractor to provide bonds equal to the value of construction services authorized by any early work amendment in advance of the guaranteed maximum price amendment. Such bonds must be provided before construction starts.

(7) **Surety; Obligation.** Each performance bond and each payment bond must be executed solely by a surety company or companies holding a certificate of authority to transact surety business in Oregon. The bonds may not constitute the surety obligation of an individual or individuals. The performance and payment bonds must be payable to the city or to the public agency or agencies for whose benefit the bond is issued, as specified in the solicitation documents, and shall be in a form approved by the purchasing agent.

(8) **Emergencies.** In cases of emergency, or when the interest or property of the city probably would suffer material injury by delay or other cause, the requirement of furnishing a good and sufficient performance bond and a good and sufficient payment bond for the faithful performance of any public improvement contract may be excused, if a declaration of such emergency is made in accordance with the provisions of section 2.1430(7)(c), unless the city council requires otherwise.

(Section 2.1440 added by Ordinance No. 20341, enacted and effective March 2, 2005.)

2.1445 Public Contracts - Electronic Advertisement of Public Contracts. In lieu of publication in a newspaper of general circulation in the Eugene/Springfield metropolitan area, the advertisement for an invitation to bid or request for proposals for a contract may be published electronically by posting on the city's website, provided that the following conditions are met:

- (1) The placement of the advertisement is on a location within the website that is maintained on a regular basis for the posting of information concerning solicitations for projects of the type for which the invitation to bid or request for proposals is issued; and
- (2) The solicitation agent determines that the use of electronic publication will be at least as effective in encouraging meaningful competition as publication in a newspaper of general circulation in the Eugene/Springfield metropolitan area and will provide costs savings for the city, or that the use of electronic publication will be more effective.

(Section 2.1445 added by Ordinance No. 20341, enacted and effective March 2, 2005.)

2.1447 Public Contracts - Labor Contract Conditions. All public contracts executed by the city wherein labor is required, except contracts for the purchase of goods, shall contain the following provisions:

- (a) A statement that the contractor will comply with all provisions legally required of contractors on a public contract.

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- (b) A statement that the contractor will comply with all of the requirements of sections 4.615 to 4.655 of this code.
- (c) A statement that, in the event of a willful violation of subsection (a) or (b) of this section, the city will penalize the contractor by debarring the contractor for one year as permitted by state law.
- (d) A statement that if a contractor or subcontractor violates the provisions of subsections (a) or (b) of this section, the city manager may terminate the contract. Payment upon termination shall be made by the city according to rules adopted by the city manager.

(Section 2.1447 added by Ordinance No. 20409, enacted May 27, 2008, effective June 30, 2008.)

2.1450 Public Contracts - Appeal of Debarment or Prequalification Decision.

- (1) Right to Hearing.** Any person who has been debarred from competing for city contracts or for whom prequalification has been denied, revoked or revised may appeal the city's decision to the city council as provided in this section 2.1450.
- (2) Filing of Appeal.** A written notice of appeal must be filed with the city's purchasing agent within three business days after the person's receipt of the notice of the determination of debarment, or denial of prequalification.
- (3) Notification of City Council.** Immediately upon receipt of such notice of appeal, the purchasing agent shall notify the city council of the appeal.
- (4) Hearing.** The procedure for appeal from a debarment or denial, revocation or revision of prequalification shall be as follows:
 - (a) Promptly upon receipt of notice of appeal, the city shall notify the appellant of the time and place of the hearing;
 - (b) The city council shall conduct the hearing and decide the appeal within 30 days after receiving notice of the appeal from the purchasing agent; and
 - (c) At the hearing, the city council shall consider de novo the notice of debarment, or the notice of denial, revocation or revision of prequalification, the standards of responsibility upon which the decision on prequalification was based, or the reasons listed for debarment, and any evidence provided by the parties. The standards of responsibility as defined in the Oregon Public Contracting Code shall be set forth in the rules adopted by the purchasing agent.
- (5) Decision.** The city council shall set forth in writing the reasons for the decision.
- (6) Costs.** The city council may allocate the city council's costs for the hearing between the appellant and the city. The allocation shall be based upon facts found by the city council and stated in the city council's decision that, in the city council's opinion, warrant such allocation of costs. If the city council does not allocate costs, the costs

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shall be paid by the appellant, if the decision is upheld, or by the city, if the decision is over-turned.

- (7) **Judicial Review.** The decision of the city council may be reviewed only upon a petition in the circuit court of Lane County filed within 15 days after the date of the city council's decision.

(Section 2.1450 added by Ordinance No. 20341, enacted and effective March 2, 2005.)

Penalties

2.1990 Penalties - Specific.

- (1) Violation of section 2.989 is punishable by a fine not to exceed \$500, or confinement in jail not to exceed 100 days, or both fine and imprisonment; in addition, the city attorney, upon request of the city manager, shall institute any necessary civil proceedings to enforce the provisions of section 2.989 of this Code.
- (2) Violation of a rule regulating city parks, recreation or cultural facilities or programs, or other public buildings and facilities owned by the city, including, but not limited to, City Hall, the library, and the Hult Center, adopted pursuant to section 2.019 is punishable by a fine not to exceed \$500 or confinement in jail not to exceed 30 days, or both such fine and imprisonment.
- (3) A person found in contempt of court under section 2.811 may be punished by fine not to exceed \$100 or confinement in jail not to exceed 20 days or both fine and imprisonment.
- (4) A violation punishable under section 2.1078(3)(a) is punishable by a fine not to exceed \$500 for each unit with respect to which the violation has occurred. Each day during which any unit has been advertised or offered or sold and such advertisement or offer or sale has not been withdrawn shall constitute a separate offense. The city attorney's office may apply to any court of competent jurisdiction to enjoin a conversion without a permit found to exist by the city.
- (5) A violation punishable under section 2.1078(3)(b), 2.1082(4) or 2.1086 is punishable by a fine not to exceed \$500 for each day of continuing violation.
- (6) Violation of section 2.890 is punishable by a fine of not more than \$100 for each day the violation exists; in addition, the city attorney, upon request of the city manager, shall institute any necessary civil proceedings to enforce the provisions of sections 2.876 to 2.896 of this Code.
- (8) Violation of section 2.1005 is punishable by a fine not to exceed \$1,000 or confinement in jail not to exceed one year, or both fine and imprisonment.
- (9) Except as provided in subsection (2) of this section, or other provisions of this code, violation of a rule adopted pursuant to section 2.019 is punishable by a fine not to exceed \$500.

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- (10) Violation of section 2.1055(7) of this code is punishable by a fine not to exceed \$500 or confinement in jail not to exceed 100 days, or both fine and imprisonment.
- (11) Violation of section 2.606 is punishable by a fine not to exceed \$5,000 or confinement in jail not to exceed 100 days, or both a fine and imprisonment.

(Section 2.1990 amended by Ordinance No. 17251, enacted February 10, 1975; Ordinance No. 17796, enacted October 25, 1976; Ordinance No. 18097, enacted January 4, 1978; Ordinance No. 18107, enacted January 23, 1978; Ordinance No. 18120, enacted February 15, 1978; Ordinance No. 18240, enacted July 26, 1978; Ordinance No. 18866, enacted September 14, 1981; Ordinance No. 19152, enacted May 30, 1984; Ordinance No. 19469, enacted April 27, 1987, effective May 27, 1987; Ordinance No. 19570 enacted July 13, 1988; Ordinance No. 19586, enacted November 28, 1988; and Ordinance No. 19614, enacted May 22, 1989; Ordinance No. 19839, enacted April 13, 1992, effective May 13, 1992; Ordinance No. 19883, enacted October 26, 1992, effective November 25, 1992; Ordinance No. 20015, enacted May 22, 1995, effective June 21, 1995; Ordinance No. 20164, enacted August 9, 1999, effective September 8, 1999; Ordinance No. 20320, enacted May 13, 2004, effective June 12, 2004; and Ordinance No. 20405, enacted March 19, 2008, effective April 19, 2008.)

2.1995 Penalties - General. Except as provided in section 2.1990, violation of any section in this chapter is punishable by a fine not to exceed \$100.

(Section 2.1995 added by Ordinance No. 19152, enacted May 30, 1984.)

2.1996 Administrative Civil Penalty.

- (1) In addition to, and not in lieu of any other enforcement mechanism authorized by this code, upon a determination by the city manager or the manager's designee that a person has violated a provision of this chapter or a rule adopted thereunder, the city manager or designee may impose upon the violator and/or any other responsible person an administrative civil penalty as provided by section 2.018 of this code. For purposes of this subsection, responsible person includes the violator, and if the violator is not the owner of the building or property at which the violation occurs, the owner as well.
- (2) In addition to enforcement mechanisms authorized elsewhere in this code, failure to pay an administrative civil penalty imposed pursuant to subsection (1) of this section shall be grounds for withholding issuance of requested permits or licenses, issuance of a stop work order, if applicable, or revocation or suspension of any issued permits or licenses.

(Section 2.1996 added by Ordinance No. 20015, enacted May 22, 1995, effective June 21, 1995; and administratively amended by Ordinance No. 20113, enacted April 6, 1998, effective May 6, 1998.)